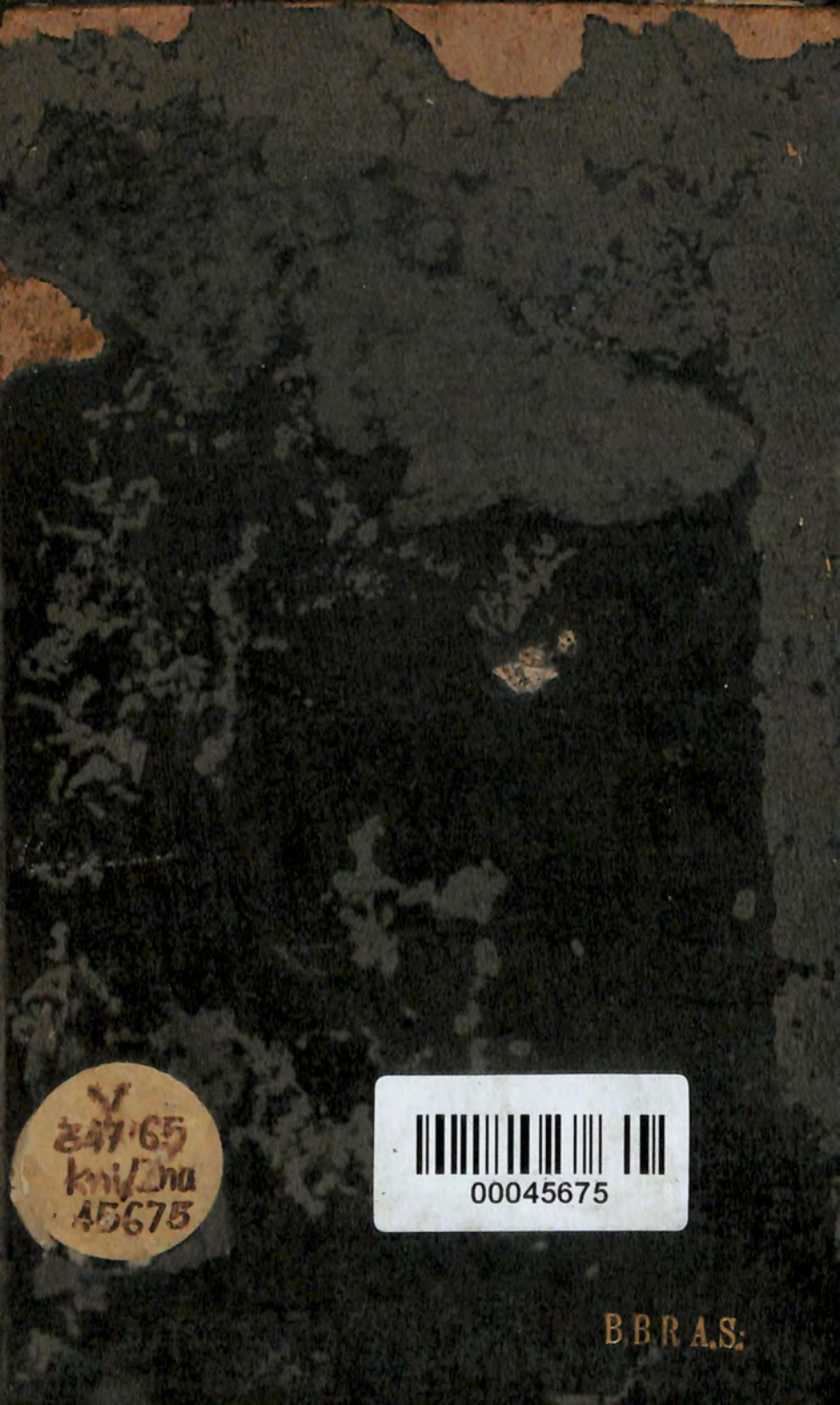
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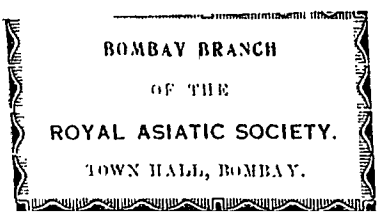

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THE

INAM COMMISSION

UNMASKED.

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ac.

BY

ROBERT KNIGHT,

EDITOR OF THE "BOMBAY TIMES."

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DEDICATION.

TO

THE RIGHT HON. LORD STANLEY,

HER MAJESTY'S SECRETARY OF STATE FOR INDIA.

My Lord,

The importance of the subject discussed in this pamphlet, the position of your Lordship at the head of Indian affairs, and the distance at which I write, will form a sufficient apology, I am persuaded, for the liberty I have taken in the dedication of this work, without previously soliciting your Lordship's sanction. In common as I believe with all who take an enlightened interest in the Indian Empire, I count it the chief felicity of our times that the destinies of that Empire are confided, in this important period, to one who stands free of all complicity in that cruel and fatal policy which has been designated by the term Resumption. Your Lordship has happily divined that the confiscation of private rights will never enhance public resources; and that the true secret of redeeming the finances of India is to develop the producing powers of her soil.

That all parties in the State may combine to retain your Lordship at the head of Her Majesty's Indian Empire for many years to come, is the earnest wish of the people of this country, and is ardently hoped by

Your Lordship's most obedient and humble Servant,

ROBERT KNIGHT,

Editor *Bombay Times.*

GLOSSARY OF INDIAN TERMS.

AMILDAR—A revenue collector.
BANIAN—A native merchant, Hindoo.
DUFTUR—The State records.
DUFTURDAR—Keeper of the records.
ENAM or INAM—A grant in perpetuity, without conditions.
ENAMDAR—The holder of an Inam.
GHATS—The Syhadree range of hills separating the Concan from the Deccan.
GOTR—Relationship within certain degrees.
GUDDEE—Throne. Seat.
JAGHIRE—Domains or lands, granted on condition of personal or military service.
JAGHIRDAR—The holder of a Jaghire.
MUSNUD—Throne.
MOFUSSIL—The country.
NUZZUR—A present. An offering.
NUZZURANA—Ditto. Feudal homagium present.
PUTR—Letters patent. Deed of gift.
POTAIL—Hereditary chief of a village.
PEISHWA.—The title of the Poona princes.
SHASTREES—Officers learned in the Hindoo Shasters (sacred books).
SIRDAR—Official of rank.
SIRKAR—The Government.
SOWCAR—A native banker.
SUDDER DEWANEE ADAWLUT—Chief Civil Court of the Presidency.
SUNUD—Deed of grant.
SURINJAM FOUJ—A grant of land on condition of military service.
SURINJAM ZAT—Ditto ditto personal ditto.
SURSOOBHA—Governor of a province.
SUWUSTHANS—Old hereditary Brahmin lands.
WURSHASUN—Annual stipend.
WUTTUN—Hereditary right.
WUTTUNDAR—Holder of a wuttun.
ZILLAH—A district.

CONTENTS.

CHAPTER		PAGE
I.	The Resumption Policy	1
II.	The Nature of an Inam	9
III.	The Right of Adoption, and the Ruling Sanction . .	22
IV.	Historical	45
V.	The Inam Act, and the Onus Probandi . . .	56
VI.	Conclusion	73

PREFACE.

THE surface of affairs in Western India has belied the true state thereof during the Rebellion; the fact being that the whole of Khandeish, the Dekhan, and Southern Mahratta country, were ripe for rebellion at any moment. It will be a fatal mistake for the English Parliament to place reliance on the statements that have from time to time appeared during the disturbances, as to the loyalty of Western India. It has been loyal only because it has been held down by artillery; a conspiracy, all but universal, having bound together the influential classes of the Mofussil above the Ghats. The Parliament is deeply interested in obtaining exact information upon this subject; and if the local government has withheld such information officially from the Home authorities,—a thing not to be supposed for one moment,—the private letters of Lord Elphinstone, and of the various members of his administration, have borne, we are persuaded, ample testimony to the fact stated. Not fewer than 500 pieces of concealed ordnance were discovered and seized a few months ago in the Southern Mahratta country alone; while it is notorious, that had the standard of Tantia Topee, the pretended successor of the Peishwa, appeared in the Dekhan, he would have been welcomed as a deliverer by all classes.

The author is far from the folly of asserting that this state of feeling was not largely attributable to the excitement occasioned by the progress of the mutiny and rebellion in the North West. While the country was in uncertainty as to what would be the issue of that contest, time was happily afforded us to recruit our resources; and at last, when the tide of war rolled towards us, we were found superior to any efforts the people could make, who now quietly submitted to disarmament.

Let it not be thought, however, that the people have been rebellious without cause. The author affirms fearlessly that their submission to the proceedings of the tribunal which furnishes the title to this book, affords the most striking testimony to the timid and enduring forbearance of the Hindoo character. Had such a commission been established in any country of Europe—indeed, in almost any country upon earth but India—it would have produced an immediate revolution.

The policy of which the Inam Commission has been the feeblest, while perhaps the most flagitious expression, has unhappily secured the apology of so many writers of ability and repute that the eyes of our countrymen have been blinded to its true character. For the last twenty years we have been committed, in all parts of the country, to a systematic struggle with the people for their possessions; and in Western India, this struggle has been maintained on two or three pleas, which will yet become infamous in Indian history.

One of these arises out of the peculiarity of the Hindoo law of inheritance, which compels a man without sons to adopt one, who then has the right of succeeding to the property of his adopted father. Upon

the pretext that such adoptions are invalid without the sanction of the State, the Government has widely availed itself of a supposed right to withhold that sanction; to escheat the properties, whenever there were no lineal male descendants in the family. Thus a landowner, with a large family of daughters, who, by Indian law, cannot succeed to real property, sees nothing but beggary before them at his death. Can we wonder that he becomes a rebel, in his despair at the tyranny which threatens to despoil his children of an estate that may have been in the family for centuries? Under Hindoo princes, the man would adopt a son, to succeed him as head of the family. The party who gives the son has to give notice to the Sirkar of his intention, that the conformity of the adoption with the rules of the Shastres may be ascertained. We repudiate the obligation, but make the notice a pretext for seizing upon the property. The fact is literally as the writer states, and it is a scandal to our name as a civilized, much more as a Christian people.

The other grievance—and it is that which this book is designed chiefly to expose—is the investigation into landed titles, which has been instituted in the Bombay presidency within the last few years, under what is called the Inam Act of the Legislative Council, No. XI. of 1852. It is hard to speak in any but the most bitter terms of the framers and agents of "this infamous machinery of confiscation," as it has been called by one servant of the State; and by another, and one of the foremost men in India, the "iniquitous policy of Government exemplified in the Inam Commission."

The chief author of the Act in question, Mr. Hart, of the Bombay Civil Service, is now in Europe, and

will, the writer trusts, be summoned before a Committee of the House of Commons to be examined upon this matter. It is feared, however, that from the intricacy of some parts of the subject, no tribunal but a local one will be able to deal with it adequately. If the real character of the Inam Commission is to be thoroughly exposed, a committee of independent men should be appointed to examine witnesses upon the spot.

The administration of Lord Elphinstone is unhappily too far compromised by complicity in these proceedings to be trusted with any decision upon their nature. With the best possible intentions, it has been wholly at the mercy of the agents of the commission appointed by Lord Falkland's administration, who have betrayed it, by misrepresentations, into acquiescence with conclusions and proceedings that have become a scandal to all India, wherever known.

To sum up the action of the commission in a word, the Government is seizing upon all the lands in the country as escheat to the State, upon one pretext or another, while by ingenious limitations of the succession to properties it dare not immediately touch, there will hardly be a landholder in the presidency at the close of three generations; and this is the policy which for the last twenty years has been dinned into our ears as the true way of redeeming the finances!

Mr. Warden, formerly of the Bombay Civil Service, and one of the most able and respected men of his time, gave valuable evidence before the Committee of last Session upon these matters. A feeble attempt at reply has been made, by the publication of a memorandum by the present commissioner, Captain Cowper; but the fact is, that whenever that memorandum attempts to grapple

with the pith of Mr. Warden's statements, it falsifies the facts, as will be shown in the subsequent pages of this work.

The author makes no apology for his shortcomings. He has simply a story to tell which his countrymen are interested in hearing; and if he has made it intelligible, and is so fortunate as to excite the sympathy of his readers, he will cheerfully bear to be told of his numerous faults of arrangement and of style.

The substance of most of the following pages has appeared in the columns of the *Bombay Times* within the last few months; and the labours of a daily journal have allowed the author little leisure for the careful editing he might otherwise have attempted. It is of more importance that he can vouch for the facts he has related; and were it thought advisable to procure testimony from this country to corroborate them, there would be no difficulty in selecting it from amongst the highest officers of the State itself.

Two or three works will be found frequently quoted in the following pages, as authorities upon the subjects discussed, and it is necessary to give some account of them here.

The Elphinstone code, which is the law of Bombay presidency in so far as it embodies the native laws and Customs of Western India, was based upon two works, both of which are now rare, while an acquaintance with them is indispensable for the settlement of any dispute concerning these matters. The works we refer to are Borrodaile's "Reports," and Steele's "Summary of the Laws and Customs of Hindoo Castes within the Deccan Provinces," printed by order of Mr. Elphinstone's Government in 1826. The origin of these works was a

minute dated the 22nd July, 1823, in which, after enumerating the evils arising from the absence of any authoritative exposition of native law and customs in the presidency, Mr. Elphinstone writes as follows:—

"There are but two courses by which a remedy can be applied,—the first is, to make a new code, founded entirely on general principles, applicable to all ages and nations,—the second is, to endeavour to compile a complete and consistent code from the mass of written law and fragments of tradition, determining on general principles of jurisprudence those points where Hindoo books and traditions present only conflicting authorities, and perhaps supplying on similar principles any glaring deficiencies that may remain when the matter for compilation has been exhausted. The first of these courses, if otherwise expedient, is rendered entirely impracticable here, by the attachment of the natives to their own institutions, and by the degree to which their laws are interwoven with their religion and manners. The second plan is therefore the only plan which it is in our power to pursue. The first step towards the accomplishment of its objects, appears to be to ascertain in each district whether there is any book of acknowledged authority either for the whole or any branch of the law: the next is to ascertain what exceptions there are to the written authorities, and what custom and traditions exist independent of them. The best modes of conducting these inquiries are, 1st, to examine the Shastrees, heads of castes, and other persons likely to be acquainted either with the law, the custom of castes, or the public opinion regarding the authority attached to each; and 2nd, to extract from the records of the Courts of Justice the information already obtained on these subjects in the course of judicial investigation."

It was in pursuance of the closing recommendation of the passage, that Mr. Borrodaile was instructed to compile the reports which bear his name. The zillahs of Guzerat, in which regular courts had long been established, were at once selected as the best field for conducting the inquiry, and the results of that inquiry were published in 1825. In the Deccan, on the other hand, our rule had been so recently introduced, and our judicial machinery had been of so exceptional a nature to avoid giving offence to the people, that there was no cases to guide us; hence the origin of the other work,

the "Summary of Hindoo Laws and Customs in the Deccan," generally known as "Steele's Summary." It would be difficult for any person unacquainted with this Summary to estimate aright its importance. It must suffice to say that the inquiry, of which it is the result, was most searching and complete. Now on these two compilations of Messrs. Borrodaile and Steele, Mr. Elphinstone's code was based; and as it is plainly of the highest moment, in the disputes concerning the Inam Commission, to ascertain their judgment, the writer will have to refer to them frequently.

The Government Selections, again, are the blue books of the Indian administration, and we fear are as open to the charge of being garbled as the Parliamentary returns.

The reader who may wish to get at once to the most important parts of the pamphlet can skip the three first chapters if he pleases. It is desirable, however, that he should read the whole, and indispensable, if he is to master the discussion.

THE

INAM COMMISSION UNMASKED.

Chapter I.

THE RESUMPTION POLICY.

It is well known that the chief source of revenue in India is, and ever has been, the land tax. The exact nature of the proprietorship which Government possesses in the soil need not be discussed here. It is sufficient to say that no modern authority of weight contends that that proprietorship extends further than to a claim upon a part of the produce of all cultivated ground, and the right of disposing of waste or unoccupied lands. There are no Crown lands in India; and so when Government makes what is called a grant of land, it is understood simply to signify, that it has assigned to the grantee its claim to the revenue payable by that land. Such grants are called, with strict propriety, in India, alienations of the revenue; and as they were of frequent occurrence under native princes, we find in every district of the country a large proportion of the land held upon rent-free tenures.

The possessors of such lands constitute the native aristocracy of the country, and the resumption policy, as it is called, has been the sustained effort of the Government, for many years past, to upset the validity of the *sunuds* or titles upon which those lands are held; that it might levy upon them the land tax, now constituting the income of the incumbents.

This policy has undoubtedly been one chief cause of the disaffection to our rule which is so wide-spread

throughout India. We have been engaged in a systematic attempt to beggar the landholders. Forgetful of all considerations of policy, and even the requirements of morality, the necessities of the Treasury have blinded the Government to the true nature of many of its acts; and the result is that British moderation and good faith have become a byword among all classes of the Indian people. The policy in question has been defended on two *primâ facie* grounds, and we shall devote the present chapter to their consideration.

The land tax is almost the only tax leviable in India, and it has therefore been contended that it is monstrous to exempt one class of the people from a share in the burdens of the State. All are interested in the maintenance of the administrative establishments of the country; and all should therefore contribute to their support. It is strange that a sophism so manifest should ever have been put forward in the defence of this resumptive policy. The fact stated may be, and undoubtedly is, an unanswerable argument for taxing the possessors of Inam lands; but it is a strange sort of apology for reducing them to beggary. Their property consists in a lien upon the revenues, created by competent authorities in times past; and it is proposed to confiscate that property, because from its peculiar nature it is at present escaping taxation. Such a procedure is not to tax but to despoil. With equal justice might the gains of the native merchant be forfeited to the State, because, being exempt from the operation of the land tax, he enjoys a virtual exemption from taxation altogether. And yet this is the only argument which the apologists of the Inam Commission, even when admitting the necessity of its abandonment, find to adduce in its defence. The *Friend of India*, which has ever been the leader of the school of resumptionists, writes as follows in its issue of the 25th November last:—

"The object of the Inam commission is thoroughly just. No man can have a right to be exempt from a land tax any more than from a ca duty. London merchants would consider the exemption of John Smith, while Thomas Brown still paid, the most heinous of oppressions. The State, therefore, in abstaining from an enactment taxing all lands is in fact unduly lenient. But while defending peremptorily the justice

of the tax, we cannot so blind ourselves to facts as to defend its expediency. The principle of resumption on all its grounds is absolutely hateful to the population. Classes, who, like the taxed ryots of the Deccan, are actually injured by the unfair competition of tax-free landholders, detest the inquiry equally with the owners of Enams. Everybody sees himself deprived by the commission of a hope, of a chance, however remote, of securing land exempted from the Collector's hammer. The passion for a free tenure, as strong in India as in Europe, increases the disgust, and the Inam commission, affecting perhaps 5,000 persons, and threatening at the utmost 100,000 more, is resented as a national grievance."

It might as well be contended that because the Havelock grant of 1,000*l.* a year is a lien upon the revenues, the family is enjoying an invidious exemption from taxation, and that the pension should therefore be resumed. The admission, made in this passage, of the odium attaching to the policy in question is extremely important, coming as it does from a quarter which has ever supported the policy it now abandons.

But an apology for the policy in question has been found in the presumption that alienations of the land revenue so extensive could never have existed at any one time under native rule. The author of *Modern India*,* one of the most violent partisans of the school under review, is frequently quoted as an authority upon this head, in the following passage:—

"It is utterly incredible and impossible that so many alienations as now exist were ever permitted at any one time under any one native government; for as such alienations are, under native governments, perfectly arbitrary and discretional, there is a constant succession of them, old ones being resumed and new ones granted."—*Modern India*, page 371.

Upon this passage, Captain Cowper, the Inam Commissioner of the Bombay presidency, in a letter to Government, dated 7th of August, 1855, comments as follows:—

"I believe the foregoing passage to describe the condition of the alienated revenues of this presidency, with a correctness which could not have been exceeded, had every fact on official record been within reach of the writer, who has enunciated an equally sound principle with regard to these alienations, in his energetic protest against the Government being deprived of the power of inquiring whether they are what they pretend to be or no."—*Selections*, No. XXIX., page 48.

* Mr. George Campbell, Bengal Civil Service.

In exact conformity with these views, and regardless of any attempt to verify their correctness, we find Mr. R. D. Mangles, another apostle of this school, giving evidence before a Select Committee of the House of Commons, in 1853, as follows:—

"6260. I should think that the great mass of alienations of land revenue were entirely fraudulent, and the Sovereign knew no more about them than I do. The enormous number of them proves that they could not have been granted by the Sovereign."

It is a fact very discreditable to the Administration of India, that any weight should have been attached to statements so loose, while it was in the power of the Government to have verified their correctness at any moment. The readiness to act upon such views shows the presence of a disturbing element in the judgment of the Administration: the fact being that it was smitten with earth-hunger, and, hankering after possessions that were not its own, was prepared to adopt any conclusion that was favourable to its wishes.

The value of the alienated lands of the Bombay Presidency is stated in the Parliamentary returns for the year 1856-57, as follows:—

"BOMBAY.

Inamdars	£281,856
Allowances to Zemindars, Muzmoodars, Dessaes, and other district and village officers, including Charitable Grants	493,062
Compensation to Inamdars and Huckdars, in lieu of their Huck Allowance	39,391
	£817,309"

The total amount of the land and sayer revenue for the same year was 2,377,729*l.*, so that one-third of the land of the presidency may be said, in round figures, to be alienated. It will be observed, however, that the lands held absolutely free are only those enumerated under the first head, that of Inamdars; the allowances to Zemindars, Muzmoodars, &c., being simply payment in land instead of money, for services they are bound to render in the administration of the country. Now, whatever may have been the case on the other side of India, we have sure testimony that in the Mahratta States

of Central India the alienated lands are to the full as extensive and as valuable as those now existing in Western India. Sir John Malcolm made minute inquiry into this very subject, and has thus recorded the result:—

"From observing that the alienation of land in Central India, on account of Wuttundar rights, petty engagements, and for charitable purposes, was very considerable, I desired the village of Belloda, near Dhar, to be measured, and that an account should be sent to me of the allotment of its land. I found that it contained three thousand two hundred and seventy-nine begahs, of which seven hundred and seventy-seven begahs, fourteen beeswas, were waste, occupied by the village and water-courses, or allotted for grass and pasture, and no less than five hundred and fifty-three begahs were alienated, leaving only one thousand eight hundred and forty-five begahs which pay rent, and of that amount three hundred and twenty-eight begahs were fallow, so that the alienations, of which I received a minute account, amounted *to more than one-third* of the soil that is productive to the State. The only grants in this village that appear excessive are those to Brahmins, of one hundred and seventy-two begahs, and one hundred and fifty begahs, to two jemadars and five chowkeedars; but the latter is the pay of these men, who are in fact the hereditary sebundies, or soldiers, of the village. I subsequently obtained other statements of the appropriations of village lands in different parts of the country, and found from them that the distribution of lands as above stated in the case of Belloda was not an unfair example."—*Central India*, vol. ii. p. 28.

Again: however undisputed the fact, insisted upon by the Inam Commissioners, may be that Mr. Elphinstone at first contemplated an inquiry into the titles upon which the alienated lands of the Deccan were held, it is certain that he very materially modified his opinion of the value of such an inquiry before quitting the presidency. In the revenue letter addressed by his administration to the Court of Directors, dated 5th November, 1823, when nearly six years' experience of those territories had been obtained, we find him writing as follows:—

"*Inquiry into the alienated lands.*

"There is but little alienated land in the Deccan, and investigation into the validity of titles is not likely to be attended with much advantage."—*App. Commons' Report*, 1832, p. 655.

The meaning of Mr. Elphinstone is clear. He was satisfied that the proportion of land alienated was not greater than is usual in the Mahratta States, and that no inquiry, conducted upon equitable principles, would

enable us to resume such land to any very great extent. It was reserved for the gentlemen of the new school to devise an Act under the provisions of which all the landed properties of the Deccan are being swept into the Treasury, and the continuance of an estate for any length of time is rendered an impossibility.

There can be no doubt that a proportion of alienated lands is held without title, having been fraudulently appropriated in the times of anarchy which preceded our rule; but it is equally certain that our eagerness for resumption has led us to magnify the extent of such frauds most unwarrantably. No better proof could be adduced of this than the fact that the Inam Commission of the Bombay Presidency, by dint of working an Act the most oppressive ever enforced in a civilized state, has not succeeded in upsetting ten per cent. of these holdings on the ground that they were obtained fraudulently; but has been compelled to fall back upon a series of ingenious limitations of the succession, to reach the great mass of them. The fact is undoubted, that had the Mahratta rule not been subverted by our own, the Inam lands would have remained in the undisturbed possession of the holders. The embarrassment of our finances led us to turn a covetous eye upon possessions that were not ours; and instead of accepting the compromise, suggested so far back as 1828 by Sir John Malcolm, of levying a succession duty upon those lands, we have entered upon a contest for the whole, until our name has become odious throughout India for rapacity and oppression.

We believe that the most fatal mistake ever made in the financial policy of India was the rejection of that scheme. The contrast between the broad and statesmanlike views advocated by Sir John Malcolm, and the petty, shopkeeping calculations which were allowed to prevail against them, gathers a fresh interest to-day from the fact that we are inheriting the future of difficulty which the genius of that great statesman discerned at a glance as awaiting us. For the last thirty years, we have been halting between two opinions as to the principles on which we should settle the great ques-

tions concerning landed properties in India. Too timid to give expression to the regret that we did not use our might in the hour of conquest with less moderation, we have been hankering after possessions which must be held to have obtained a prescriptive title even at our own hands. We have had neither the grace to concede with frankness claims that we could not ignore, nor the courage openly to disavow them. We have succeeded in alarming all the property classes of the country, and alienating them wholly from our rule, without having enhanced the revenue one sixpence by our policy. In refusing the composition which was within our reach, we have beggared our resources in a hopeless struggle for the whole, and made shipwreck of our reputation for good faith and integrity, with all the influential classes of the empire.

The reproach would be useless, if the case admitted of no redemption; but happily this is not the fact. We are but upon the threshold of the platform where the great struggle impends; and it is not too late for us to retreat with honour. If the experience we have gained but lead us to a frank acceptance of the compromise which was long since pointed out—the only compromise that can save us from the ruin of India, as far as human hands can accomplish it—the fifteen millions added to our debt by the Rebellion will have been cheaply expended. We cannot, we dare not prolong this struggle as we shall give account either to God, or man. In watching invidiously for pretexts upon which to escheat the properties of the landholders of India, we are occupying an attitude that is fatal in point of policy and shameless in point of morals. These men know that we are watching for their extinction, and hate us with all the energy that combined fear of us, and love of their families, can inspire. If we were wise, we should regard their destruction as the most signal misfortune that could overtake the country; while we seem positively intent upon creating that sea of pauperism, against which our predecessors would have erected new barriers, if possible, by building up a middle order and aristocracy of our own creation.

Let us suppose that, thirty years ago, we had issued a proclamation throughout the country, embodying the noble sentiments of that minute of Malcolm's, of the 10th of June, 1828. We should therein have guaranteed the people in their possessions, and conceded to them frankly the right of inheritance according to their own laws, and so fulfilled the pledge, repeated a hundred times, to respect the ancient customs of the country. We should have carried into the home of every man who had a property to save the conviction that, instead of insidiously watching for an opportunity to declare it an escheat, we should look upon the impoverishment of his class as a national misfortune. We should have given that man a new existence, and bound him to our rule by ties that would have defied a thousand temptations, to which our ill-disguised hankerings after his estate have made him, and his whole class, the ceaseless prey. The levy of a Nuzzur would have been hailed by these men as the pledge of our sincerity, and, according with the customs of the country, would have been submitted to without a murmur from any class but the mushroom growth of the presidency cities. We have chosen the policy of which this Inam Commission is the feeblest expression; which, while it has driven the country into rebellion, and necessitated the doubling of our army, is barely paying the cost of its establishment.

Chapter II.

THE NATURE OF AN INAM.

The term Inam is of Arabic extraction, and while loosely employed throughout India to signify a gift of almost any description, has a precise and well-understood significance attaching to it in the Mahratta tongue. In the first edition of Mr. Molesworth's dictionary of the Mahratta language, its meaning is determined in the loose sense we have pointed out; but the attention of that gentleman having been, as we suppose, directed to the specific use of the term as applied to lands throughout Maharashtra, we find the following important correction made in the last impression of his work:—

इनाम Inam.—A grant in perpetuity without conditions.

It is necessary to inform the reader that throughout the Mahratta provinces, a wide and well-understood difference exists between two descriptions of grants emanating from the State; the one being Jaghire, or Surinjamee, tenure, and the other Inam. Grants of the former description were rarely hereditary, or permanent; the latter always so. Jaghire territory, held upon any grant whatever, seems to have been resumable at the pleasure of the prince, but was generally continued during good behaviour; the change of possessorship in these lands being frequent, however, under Mahratta rule, from the revolutions that were incessantly occurring in the State. It is very necessary that the point now discussed should be determined to the complete satisfaction of the reader, and we must therefore elucidate it fully. In the memorandum of Captain Cowper, printed under the approval of Lord Elphin-

stone's administration, and circulated to counteract the effect of Mr. Warden's evidence before the Committee of the preceding Sessions, we find an entire section devoted to a professed inquiry into the nature of Inam lands, and that the reader may have the case fully before him, that section is printed in the foot-note below.* It will be

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* "*The Nature of an Inam.*—Mr. Warden described an Inam as 'a grant of land in the fee simple' (Q. 6,137). So far from correct is this statement, that of the tens of thousands of genuine inam sunnds granted by Hindoo sovereigns which are in existence, and the registries of which are to be found at length in the Peishwa's State Records, there are, probably, not half a dozen which do not specifically define the grant as one made to the grantee and to his heirs male, and the same records clearly prove that on default of male issue the Inam reverted to the Government.

"Mr. Warden informed (Q. 6,075) the Committee that 'in the title-deeds to an Inam, language is exhausted in order to express that all proprietary right is thereby transferred from the Government to the Inamdar.' The following is from a minute recorded on the 16th of January, 1823, by Sir Thomas Munro, whose character for justice and generosity was a sufficient guarantee. Mr. Warden elsewhere (Q. 6,075) stated to the Committee that under his administration all due respect would be shown to the rights of the natives of India. Sir Thomas Munro recorded his minute after he had effected the reduction and settlement of the Southern Mahratta country, the district in which Mr. Warden considers the Inam Commissioners' inquiries to have been specially mischievous and oppressive:—

"'In this country, under the native Governments, all grants whatever are resumable at pleasure; official grants are permanent while the office continues, but not always in the same family; grants for religious and charitable purposes, to individuals or bodies of men, though often granted for ever, or while the sun and moon endure, were frequently resumed at short intervals. Grants of Jagheers or Inam lands from favour or affection, or as rewards for services, were scarcely ever perpetual. It was rare that any term was specified, and never one or more lives; but it made usually little difference whether the grant was for no particular period or perpetual. The (altumgha) perpetual grant was as liable to resumption as any common grant containing no specification of time; it was resumed because it was too large, or because the reigning sovereign disliked the adherents of his predecessors, and wished to reward his own at their expense, and for various other causes. There was no rule for the continuance of grants but his pleasure; they might be resumed in two or three years, or they might be continued during two, three, or more lives; but when they escaped so long it was never without a revision and renewal. I believe that the term of their lives is a longer period than grants for services were generally permitted by the native princes to run.'

"This minute was specially brought to Mr. Warden's notice just

observed that Captain Cowper does not venture himself to define the nature of an Inam holding. He contents himself with referring to a minute of the late Sir Thomas Munro, which affirms that grants of Jaghire, or *Inam lands*, were scarcely ever perpetual, and that they were resumable indiscriminately at the pleasure of the grantor. The simple reply is that THERE IS NO SUCH MINUTE IN EXISTENCE. It is difficult to prove a negative; but having searched all the sources in which it was likely that this minute would be found, we may state, with all but absolute certainty of the fact, that there is no such minute in existence as the one which Captain Cowper professes to quote. The so-called minute is a loose summary of a very important document drawn up by Sir Thomas Munro, dated 15th March, 1822. Captain Cowper is hardly entitled even to this concession, for although the summary renders, correctly enough, the substance of what Sir Thomas Munro has written concerning the Altumgha Jaghire grant, that gentleman has suppressed a passage, showing conclusively that Sir Thomas Munro was well aware of the distinction between Jaghire and Inam lands.

With his usual candour, also, the Commissioner fails to inform the reader that the circumstances, under which the real minute was written, were of so peculiar a nature, that we should naturally have expected the judgment of even the best man to have been somewhat biassed thereby. Munro was Governor of Madras, and the Supreme Court had ventured upon the extreme step of decreeing the hereditary right of a Jaghiredar of the Mofussil to a considerable tract of country, altogether beyond the jurisdiction of the Court. The entertainment of such a suit was a daring encroachment upon

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before he left India, in a letter of mine, which he took great pains and wrote at length (though unsuccessfully) to prove incorrect, as it exposed the erroneousness of lists prepared by him as agent for Deccan sirdars, on the authority of which the continuance of the Deccan surinjams had been ordered by the Home Government. On that occasion, too, I explained how completely Mr. Warden's assertions were at variance with the evidence afforded by the Peishwa's State Records."—*Cowper's Memo.*, 22nd October, 1858, pages 39-41.

the powers of the Government, and was very properly, and very warmly, resented by Sir Thomas Munro. In reply to the judgment of the Court, he wrote the minute in question; and that its views of the ruling prerogative, in the disposal of Jaghires, are more extreme than Munro himself would have ventured upon in practice, no man probably but the Inam Commissioner would doubt. But if we admit ever so fully the conclusiveness of the minute as to the residence of an arbitrary power of resumption in the State, in the matter of Jaghire lands, whether held upon the Altumgha grant or any other, the fact does not in the least affect *Inams*, with which only we are concerned. The Commissioner carefully suppresses a passage in this very minute, which utterly overthrows the conclusion he would have the reader draw from it, and shows that Sir Thomas Munro was fully alive to the difference between the Altumgha grant and Inam holdings. The minute consists of thirty-four octavo pages, and contains the following passage, which the Commissioner's eyes failed, we must suppose, to detect:—

"The small altumghas were frequently neglected on account of their insignificance, and allowed like common charity, *or enaum-lands*, to continue for two or three generations, *and to be regulated by the laws of private property*. But the greater altumghas were from their nature objects of state jealousy, and were resumed or transferred at the discretion of the sovereign to punish one person, or to reward another. They could not be left as private property without danger to the State."—*Munro's Life*, vol. ii., page 241.

Thus the very authority, and the only one, the Commissioner ventures to appeal to, declares Inam lands to be of the nature of, or, at all events, regulated by the same laws as, private property.

But Captain Cowper, it will be seen, affirms, further, that of the ten thousand sunuds existing in the Poona *duftur*, probably not one exists that does not limit the succession to Inam lands to the heirs male of the grantee.

Now in this case he takes us at a disadvantage, for the *duftur* is in his exclusive possession. But it so happens that in No. 15 of the old series of Government *Selections*, a string of these sunuds is quoted, from

pp. 10 to 13; while not one of them contains the limitation which Captain Cowper would have us believe is found in them all:—

The 1st	runs thus,	" you and your heirs."
2nd	„	" you and your heirs hereditarily."
3rd	„	do. do.
4th	„	do. do.
5th	„	" given to you as an hereditary joree inam."
6th	„	" given to you as an hereditary inam."
7th	„	" you and your heirs hereditarily."
8th	„	" you are therefore to enjoy the village hereditarily."
9th	„	do. do.

The only other sunud we have lighted upon is the one recorded at length in p. 34 of *Selection* No. XXXVIII., in which the heirs of the grantee are not even mentioned, but the revenue collectors are directed to continue the Inam to the grantee in perpetuity.

When the Commissioner therefore tells us that, of the ten thousand sunuds in the Poona duftur, probably not one exists that does not limit the succession to the grantee and his heirs male, we are to believe that the coincidence has happened, of a constellation of eccentric sunuds appearing together. That the Commissioner has interpolated the word *male*, and that it does not exist in the sunuds at all, is as certain as the fact that there is a duftur in existence. Let the reader mark the use of this interpolation. It destroys the Inamdar's right of adoption *in toto*, no male heir having a stronger title under Hindoo law than an adopted son, whether descended through a female branch, or taken from another family altogether.

The Government has refused the public all means of testing the Commissioner's statements, while upon the very face of them they are incredible. We are assured by one of the first Mahratta scholars of the Presidency, that it is certain from the etymology of the language that no such word as *male* can exist in the sunuds.

We have now done with the Commissioner's sophistries, and come to authorities. We begin with the decision of Mr. Elphinstone's government, contained in the letter of Mr. Chief Secretary Newnham of the 4th of March, 1825, to the Commissioner of the Deccan:—

"Inam lands being private property, it is desirable that the owner should be enabled to dispose of them as he pleases."—*Selections*, No. XXVIII., page 14.

We are unable to present the reader with more than this fragment of the letter in question, the Government of Bombay having declined to allow us access to the original. The quotation, however, is unimpeachable, being produced by Government itself, at page 14 of its printed *Selections*, No. XXVIII. The same page contains a quotation from a letter of the Collector of Poona, dated 10th May, 1825, in reply to certain inquiries that had been addressed to that official. The passage is as follows:—

"During the Mahratta rule the holders of Inams could dispose of them by will, in sale, or in any way they chose. In Bajee Rao's time the permission granted to widows to adopt sons was rare, but this originated in the apparent propriety of obliging the people to adopt the course, which in Bajee Rao was rendered personally expedient in regard to the succession to the Musnud.* Since it is in the power of widows, or any description of holders, to give away their Inam land, there seems to be no good reason for hindering them from securing it to an adopted son, or for obliging them to resort to any other mode of disposing of it, not congenial with their inclinations."—*Selections*, No. XXVIII., page 10.

It is of no moment that these opinions are adduced by the Inam Commissioner for the purpose of proving them unfounded. It is enough for our purpose that they show conclusively the judgment formed by Mountstuart Elphinstone in 1825, of the true nature of Inam lands. They were private property, given, sold and willed at pleasure. We are bound, however, to give a passing notice to the endeavour made to dispute the correctness of Mr. Elphinstone's views. It is professed that these views were adopted by him as the result of a *single day's* investigation, conducted in Poona by Captain Robertson, the collector; and it is modestly suggested that such a procedure evidences a haste and want of consideration, not generally characterizing that great man's administration. We shall not reply to the fabrication; but simply notice the source of Mr. Elphinstone's information. We have

* Bajee Rao's accession was secured by forcibly setting aside such an adoption.

pointed out in the preface the circumstances under which Steel's Summary was compiled, and the fact that it is, to this day, the leading authority on the laws and customs of the Peishwa's territories. It was from this fountain that Mr. Elphinstone drew his knowledge, or certainly obtained its confirmation; and we must here quote its decision upon the point before us:—

"*Private Property is of the following kinds:*

"2nd. Land and dues granted in free Inam by Government, or by independent Jageerdars, or by Enamdars, to individuals."

"Enams were given under the late Government from personal favor to chieftains, mootusuddies, sastrees, josees, physicians, Brahman priests and devotees, gosaens and mendicants, sahookars, dancing girls, artizans, sons-in-law, friends, dependants, &c. The subjects of Enam grants are the Sirkar revenues or portions of them (as the different Umuls of mookassa, babtee, &c.) due from villages, and government land, formerly subject to the discretionary levy of nuzzars on alienation, &c. *These grants were hereditary, and generally freehold.* All the sovereign princes and great chiefs gave Enams out of their own territories, and generally obtained the confirmation of the Supreme authority."—*Steele's Summary*, page 206.

Nothing can be plainer than these statements; and, when it is borne in mind that the work from which we are now quoting is the only authority upon the subject, it must be held to be conclusive. Again, in treating of the transfer of Inam lands, we find the same inalienable right of property therein insisted upon:—

"In the transfer of lands, &c., the situation, extent, and nature of the land, the tenure by which it is held, and the considerations for which it is made over, are described in the Khareedputr. With the land are also transferred water, grass, trees and their produce, drywood, treasure, and stones to be found thereon. The village officers and others witness the deed, which is generally written by the Koolkurnee. *Land is not resumable by the grantor if he give an Enam-putr.*"—Page 277.

Can anything be more explicit or emphatic than the clause we have italicised? Again, at page 60 of the Appendix, we read that

"An Inam field may be given away with consent of the relations."

And finally, at page 227, that

"Nuzzars were not levied on successions to Inams, *only on alienatio is by sale*, to the amount of one year's value of the estate."

Indeed, so notorious is the fact we are now insisting upon, that we find the Inam Commissioners them-

selves sliding into its recognition. Thus what language can be more corroborative of what we have advanced than the emphatic statements of Mr. Hart, the former Commissioner?—

"All hereditary Inams were of an essentially permanent nature, and the giving back of such lands was equivalent to giving them back with a guarantee of permanency. Surinjams are not of an essentially permanent nature, and the giving back of such lands was equivalent, at the utmost, to the giving them back for the life of Doulat Rao—the Surinjamdar."—*Selections*, No. XXXVIII., page 6.

The only attempts made, indeed, to dispute the fact we have stated consist in the production of the spurious minute of Sir Thomas Munro, and the line of argument suggested, rather than avowed, in the following extract from a minute of the present Commissioner's, dated 2nd July, 1853:—

"The power of resumption seems to have been arbitrarily exercised; but this is not surprising, for it could scarcely have been otherwise, where the will of the sovereign had the force of law, and indeed was the law. Whatever may have been the *theory*, in practice Inams seem to have been interfered with in every possible way; and it will be seen that on an Inamdar's death even his son could not consider his holding secure without obtaining the special sanction of Government to the succession. It will be observed also that political offences were punished by resuming the Inams of the offender, and that the punishment due to the actual delinquent was sometimes *even inflicted on his relations*. When it is remembered that the Mahratta rule was one succession of usurpations, conquests and intrigues for sovereign power, an estimate may be formed of the number of persons who suffered on this account."—*Selections*, No. XXXI., page 20.

The admission, of course, is perfect, that the nature of Inam lands has been correctly laid down by us. It remains only to add that the alleged interference therewith by Mahratta rulers is exaggerated to suit the purposes of the Commission; the fact being, that any general resumption of Inams, such as that now progressing under our rule, would have precipitated fifty Bajee Raos from the Mahratta musnud. We do not stay to reply to the pretence that we are justified in our spoliation by the caprices of the debauched despot who preceded us. Before finally leaving Mr. Elphinstone as an authority upon this point, we must adduce the important corroboration furnished by his

history. It contains but one passage upon the subject, but it is conclusive :—

"A large proportion of the grants to individuals are also in perpetuity and are regarded as among the most secure forms of private property; but the gradual increase of such instances of liberality, combined with the frequency of forged deeds of gift, sometimes induces the ruler to resume the grants of his predecessors, and more frequently to burden them with heavy taxes. When these are laid on transfers by sale, or even by succession, they are not thought unjust; *but total resumptions, or the permanent levy of a fixed rate, is regarded as oppressive.*"—*History of India*, page 78.

It is here emphatically declared that these Inams are regarded by the people as amongst the most secure forms of property known in the country; and that the resumption of them, or even the permanent levy of a tax upon them, was held to be oppressive. But there is a very short way of determining this matter in so far as Mr. Elphinstone is concerned. That gentleman is still alive, and of clear and unclouded intellect, although of so great age. His experience of Deccan affairs is more intimate than that of any man now living. Let him, then, be appealed to. We are content to abide by his decision.

We come now to Sir John Malcolm, who succeeded Mountstuart Elphinstone as governor of the Bombay Presidency in 1827; and whose acquaintance with the laws and customs of the Mahratta States was probably closer than that of any other man of his time. In a minute, dated 30th November, 1830, we find Sir John Malcolm passing under review the chief events of the administration he was about to resign; and noticing, among other things, the question of adoption by Inamdars in the following terms :—

"Adoption by Inamdars.

"Among the numerous claims to succession to property, there are none that require more attention than those of adoption. This question came under discussion in consequence of two widows of a deceased Inamdar, in the Northern Concan, having agreed about the adoption by one of them of a boy, who in consequence entered upon the enjoyment of the Inam. A question arose as to the validity of the transfer of an Inam by an adoption, to which the sanction of Government had not been previously obtained. In the instance alluded to, the adoption had not received such sanction; and the collector therefore thought the Inam escheated to Government. Permission, however, had never been refused,

having never been applied for; and I was of a different opinion from the collector, in whose view of the case one of my colleagues, Mr. Warden, coincides. The result of inquiries that were instituted confirmed the conclusions I had drawn from my observation in different parts of India—which were, that though adoption was, as regarded surunjamee and jagheer lands, vitiated by the want of permission from the ruling authority, the same consequences did not follow in respect to Inams, which are often subject to nuzzur; but on discharge of specific obligations stated in the sunud, or established by long usage, are confirmed as *property in inheritance;* and that when an Inam is so held, the right exists to transfer it by adoption, according to the Hindoo law. *Upon this principle the right of Inheritance to the Inam was not disputed, and the adopted son continued in possession.* It may be added, that there is no right which, among Hindoos, is held more sacred than that of adoption. It is a sin not to adopt; and among other obligations of duty, when there are no direct heirs, the adopted son lights the funeral pile of his deceased father."

The passages we have italicised show the essential difference in the nature of Inam and Jaghire estates, the former being governed by the same laws as private property. The question of adoption, definitively settled in this passage, will come under review presently.

Again, in Sir John Malcolm's well-known Nuzurana minute of 1828, we find him quoting numerous authorities (Chaplin, Robertson, Lumsden,) concerning the exemption of Inam lands from the tax levied upon succession to Jaghire estate, the latter being dependent upon the pleasure of the prince. Considering how universal was the practice of levying a nuzzur upon succession to property, and offices, under native princes, no argument could be more powerful for the absolute nature of these grants than their exemption from this tax.

Sir John Malcolm's successor was the Earl of Clare, who seems very early to have had his attention directed to the disputes concerning these holdings, and to have so completely agreed with his predecessors upon the subject, that he simply caused Mr. Elphinstone's Circular of 1825, quoted above, to be republished, for the guidance of the collectors.

We cannot find that the late Lord Metcalfe ever minuted expressly upon the subject, but in his minute of the 7th of November, 1830, respecting the settle-

ment of the western provinces, we find an incidental reference to Inam property of considerable importance.

"In making, therefore, what is nominally a grant of land, the Government in reality grants, not the land itself, but the state revenues leviable in that land, or the Government share of the produce. It might be said that in some instances the grants of Government go further; and grants of millik, *enaum*, &c., might be adduced in support of that view. Even those grants are not without some reservation of the previous rights of property; but that is altogether a separate question, into which it is not necessary at present to enter."—*Appendix to Commons' Report*, 1832, page 330.

We quote this extract only to show, and it does show conclusively, that Inam properties were held upon a surer and broader tenure than ordinary grants of land under native rule. Under our rule they are confiscated wholesale. But the most valuable collateral evidence that the writer has been able to command upon this subject, is that supplied by the late Grant Duff's celebrated Mahratta history. Thus, at page 456 of the first volume, we find the following passage:—

"Numberless personal Jaghires and Inams of lands and of whole villages were alienated by Shao. The former commonly required the performance of some service, but the latter were entirely freehold."

Again, we find at page 506 that in the treaty of 1730 between the Kolapore and Sattara branches of the Mahratta dynasty, "grants of Inam land, or hereditary rights, conferred by either party within their respective boundaries, were carefully confirmed." A yet more forcible illustration of the point in hand is furnished us at page 76 of the third volume, where we find the Minister, Nana Furnavees, insistng upon a certain grant being made by the Padshah to his Minister, the Peishwa, "as an hereditary office *in inalienable Inam*," indicating that such a grant could not be revoked; and at page 141 the infamous Ghatgay stipulates for the influence of the Peishwa to procure him the village of Kagul in *Inam*, as the price of surrendering his daughter to Scindia, an *Inam* village being never resumable by the grantor.

The history abounds with illustration of the hereditary and absolute rights in land possessed under the Mahratta rule, and its authority must be held

final, since we can appeal to no higher. It is Grant Duff who tells us that every species of hereditary right, and all rent-free lands, not Jaghire, were restored by Mr. Elphinstone in 1818, without reserve or modification of the proclamation.

Lastly, what have the people themselves to say upon the nature of these lands? When the present Inam Act was before the Legislative Council, a memorial (see Appendix D), dated 14th of November, 1851, numerously signed by Inamdars, Wuttundars, Sirdars, merchants, and other inhabitants of the Deccan, was laid before the Government of Lord Falkland, praying that certain alterations might be made in the draft Act, and, amongst other things, that the true nature of Inam lands might be authoritatively declared therein.

"5. In noticing these permanent tenures, your Lordship's petitioners beg to dwell at length on that very one, from which the commission itself derives its name. Has not the name Enam been given to the Commission, from the fact that the largest portion of alienations to be now inquired into are held on that tenure, and is it not but justice to your Lordship's subjects, that the nature of this all-important tenure be prominently specified in a law, by which the Enam Commission is to decide upon Enams.

"6. The word Enam is of Persian origin, and means in that language a gift; that is, when anything is granted as Enam, the donor has not the remotest interest in it; at least as long as the grantee or grantees, or his or their heirs in perpetuity are alive. The wishes of the donors and expectations of grantees, in Hindoostanee, were, to say the least of them, nothing less than the true meaning and import of this term.

"7. In this country, grants of land on the Enam tenure were made by the former Government and their officers, and by the zemindars and communities of people. The etymology of the term, the wishes of the donors, and the hopes of the donors, have all conspired to make Enam in itself a permanent tenure; and the usage of Governments, which have preceded the British in this country, as well as those that still subsist, has been, and is to treat Enam as a permanent tenure. Enams only revert to Government as heirs to intestate property, but so long as the donors and their heirs in perpetuity do exist, Government has no right to interfere with the Enam property. Enam is one of the best tenures in India."

The statements of the memorial are unimpeachable. A grant of land in Inam constitutes that land the private property of the grantee, and the Government might with as much regard for the laws declare the property of a Soucar, leaving no sons, an escheat to the

State upon his death, as declare an Inam field to be so on such a ground. The institution of an independent commission of inquiry would determine the fact at once; and we doubt whether any of the parties, whose reputation stands committed to this machinery of confiscation, would choose to appear before it to bear testimony to the reverse.

Chapter III.

THE RIGHT OF ADOPTION AND THE RULING SANCTION.

The present Commissioner for alienations in the Bombay Presidency, Captain Cowper, is the author of a famous memorandum on the subject of adoption. The memorandum is dated Poona, 26th May, 1855, and will be found in No. XXVIII. of the *Selections*. That it is a tissue of misrepresentations throughout, is as certain as the fact that Government has held it, and still holds it, to be unanswerable. The memorandum would be difficult of comprehension by the general reader, and is too lengthy to be printed entire. We shall do our best not to misrepresent a word of it. Captain Cowper has had the opportunity in India of replying to all that will be here advanced, and has declined it.

The memorandum is intended to prove that Mr. Elphinstone did *not* settle the Deccan upon the principle that succession to Inam lands by adoption took place as a matter of course; but that the sanction of the ruling power was enforced in the same sense in which it is now. For, be it remarked, that unless the memorandum mean that, it means nothing whatever that concerns us. We are interested only in establishing the fact that a most grievous departure has taken place from the equitable principles which guided that great man's administration, and that the new school stands in direct opposition to the policy which it professes to appeal to in its vindication. Mountstuart Elphinstone undoubtedly sought to administer the newly acquired provinces under the laws and customs which he found prevailing in them; while under cover of this fact, the Inam Commissioner has deduced the awkward pretence that the caprices of the Peishwa's despotism, the

record of which he has raked out of his *duftur*, are to be reduced into a system by his Christian successors. We might find a precedent in the facts recorded by that *duftur* for every villany perpetrated in the native States of India; and for Christian men and administrators to profess themselves unable to draw any distinction between the caprices of a debauched scoundrel and the laws and customs of the people, is one of those scandals which will one day have to be wiped out by England in tears of grief and shame. In the following passage, before quoted, we have the whole key to the Commissioner's conception of what the laws and customs of the country are held to mean:—

"The power of resumption seems to have been arbitrarily exercised; but this is not surprising, for it could scarcely have been otherwise, where the will of the sovereign had the force of law, and indeed *was* the law. Whatever may have been *the theory*, *in practice* Inams seem to have been interfered with in every possible way; and it will be seen that on an Inamdar's death, even his son could not consider his holding secure without obtaining the special sanction of Government to the succession. It will be observed, also, that political offences were punished by resuming the Inam of the offender, and that the punishment due to the actual delinquent was sometimes *even inflicted on his relatives*. When it is remembered that the Muratha rule was one succession of usurpation, conquests, and intrigues for sovereign power, an estimate may be formed of the number of persons who suffered on this account."

The Inam Commission, from first to last, is based upon the assumption that "the laws and customs of the country" are to be determined by the practices prevailing in a period like the one indicated. The *theory* of the law that Inam lands are irresumable is to give place to the Peishwa's practice of confiscating any Inamdar's land who withheld his wife or daughter from his bed! It is impossible to sink lower than when adopting maxims so unnatural; nor can we repress our indignation when recording them.

The memorandum begins as follows:—

"The earliest evidence of the practice under the British Government as yet discovered has been found in the proceedings of the civil tribunals at Surat, in A.D. 1814, and subsequent years, in a disputed case of adoption, involving an annual income of about a lakh of rupees, reported in Vol. I. of Borrodaile's *Reports*, pages 181 to 202, in which case in every one of the courts, from the lowest to the highest, the sanction of the ruling power to an adoption was held to be essential."

The writer of this passage is a very bold man. He calculated, however, upon the fact that Borrodaile's *Reports* are not in everyone's hands, and that the chances were heavily against any one taking the trouble to verify his version of their contents. But the statement that Borrodaile's *Reports* uphold the necessity of the ruling sanction to give validity to any adoption whatever, is altogether incorrect. On the contrary, they treat the pretence that such sanction is indispensable with the most marked contempt. The Commissioner is far too lynx-eyed not to know every passage in Borrodaile bearing on this matter, and his memory has been refreshed a little unpleasantly on the subject. In his memorandum, he is sufficiently ingenious to refer to two works of difficult access, but of great authority, to strengthen his statements as to the views of Mr. Elphinstone, and he has not dealt fairly with them both. The first of these works is the one now under notice. Mr. Borrodaile was directed to select the Reports, as he himself tells us, with a view to assist in the compilation of the Elphinstone code :—

"The selection of the following Reports was directed, along with other measures, for the purpose of forming a body of information regarding the laws and usages in force among the natives under the presidency, which, it was hoped, might ultimately form the groundwork of a rational and consistent digest for the guidance of the courts of justice."

Now, we have gone carefully through the whole 203 cases reported in these volumes, and we find that this question of the "ruling sanction" was raised in two only. In the one case (No. 14, vol. ii., p. 75), an attempt was made to oust the possessor of an Inam village, on the ground, amongst others, that his adoption by the last incumbent had not been sanctioned by the Peishwa; and in case No. 86 of the same volume, a similar succession was attempted to be upset, because the permission of the English Sirkar to adopt had not been obtained. In each case, moreover, an express prohibition of the ceremony, by the Sirkar, was produced in court; the reason of the prohibition in one case being plain, viz., that the adoption was of a nature interdicted by the Shastrees.

Now, these are both important cases to this day, and the courts in every instance, through some eight or ten trials, declined even to notice the Sirkar's prohibition at all. The adoptions in both cases were defective and irregular, and the Sirkar's authority was arrayed against them too: but the act of adoption, once made, was held to be so irreversible that the courts felt compelled to uphold it. How the Inam Commissioner, or any other, could adduce Borrodaile as an authority for the ruling sanction, we do not pretend to inquire. In the case which the Commissioner instances, the question before the court was not what he states it to have been, viz., "whether the sanction of the ruling power to an adoption was essential." That question is nowhere raised in the works cited, except in the cases we have pointed out, and there its decision is against the Commissioner. The question before the court in the case he refers to was simply this: "Shall a firman of the Delhi emperor, confirming to an adopted son the care of a certain idol at Dwarka, be reversed in favour of another claimant, of equally remote kindred to the late possessor?" when the decision that the firman of the late Government must be held conclusive was very properly recorded. In so far as we can find, no man has ventured to appeal to these reports in defence of the Commission, but Captain Cowper, and he has misrepresented them. He refers to them once only, and asserts that they show that "the sanction of the ruling power to an adoption was held to be essential by every court" of that time. A more careless mis-statement was never placed before Government; the reports deciding, as has been stated, in favour of the adopted son, in the teeth of express prohibition by the Sirkar. The point was raised, as we have said, in two cases only, and in both of them was treated by the courts with contempt.

Again, Captain Cowper has appealed to Steele's *Summary* in support of the present practices of the Commission, and here again has dealt as unfairly as in the case of Borrodaile. He introduces the reference as follows:—

"I have already shown that Mr. Elphinstone, just after the conquest

of the Deccan, instructed the collector of Poona to follow the practice existing under the former Government, 'until there shall be full time to gather good opinions as to the Hindoo law;' and I now have to beg attention to the opinions which were thus gathered, and which were embodied in a summary of 'the law and custom of Hindoo Easter within the Deccan provinces subject to the Presidency of Bombay,—which work was ordered by Mr. Elphinstone's Government to be printed, on the 29th July, 1826, and in which I find the following distinct definitions of the practice in regard to adoptions as affecting property held from the State, *i.e.* the public revenue:—

"'Lands given in Inam, on failure of heirs, revert to the grantor, whether Government or an individual Jagheerdar.'" Page 235.

"'Widows may also adopt with the consent of the representatives of the grantors of the Inam.

"'The consent of the Sirkar (Government) is necessary to adoption by Wutundars.'" Page 185.

"'Inamdars, exclusive of dancing-girls, in making adoptions, must obtain the consent of the representatives of the grantors, or, if the Inam land were granted by Government, of the Sirkar, Nuzurs were paid to the native Government on occasions of granting permission to adopt.'" Page 185.

The assertions in this case are on a par with the Commissioner's other statements. Let it be borne in mind that the Administration has placed the stamp of its approval on this memorandum, and declared it unanswerable, while, in point of fact, it is a tissue of inaccuracies from beginning to end. Captain Cowper has rightly described the origin and importance of the *Summary;* but it is to be lamented that he could neither read, nor quote it correctly. It is true, it asserts that "lands given in Inam, on failure of heirs, revert to the grantor, whether Government or an individual jagheerdar;" but on the very same page (235) it is written: "*But the Sirkar cannot succeed while any relation of the deceased can be found.*" And again, at page 59 of the Appendix: "Should there be no relations or persons connected by gotr with the deceased, the Sirkar is heir." And again, at page 58: "The Sirkar cannot succeed to private property" (Enam is the chiefest kind of private property, see page 206 of the *Summary,*) "while any relations are to be found." What can be said of the trustworthiness of any man who dare thus mislead the Government on a matter where he was supposed to speak upon conscience? Again, does Captain Cowper mean to tell us that under any native government in

existence it would be held "a failure of heirs," simply that there were no sons surviving? Is an adopted son not an heir by Hindoo law? Is he not the first of all heirs? Is a brother not an heir? nor a nephew? nor a father? nor the thousand collaterals enumerated by Mr. Steele. We are fairly astonished at the audacity which dare attempt to draw Mr. Elphinstone into complicity with practices which violate, not Hindoo law alone, but common sense and common decency. To what purpose, again, are several passages quoted to show that successions by adoption to Inam estates required the sanction of the ruling power? What we want to know is, whether that sanction by the laws and customs of the country could ever be refused, while the adopted son was entitled to succeed as a collateral by blood. Had the Commissioner sought conscientiously to enlighten Government in this matter, he would have quoted from the *Summary* many passages diametrically opposed to his deductions; but as he has failed to do so, it shall be done for him. And, first, observe Mr. Steele's own deduction, given in the preface:—

"A general conformity is observable amongst all the castes in the practice of adoption, *even by widows*, in order to secure the continued performance of funeral oblations." Page 15.

"Women becoming entitled to wuttuns by inheritance may adopt; and on the commission of a great crime by the holder, the wuttun may be resumed by Government." Page 91.

"The widow holds the real property for life, and may adopt one of the husband's relations, *with their concurrence* and that of the caste, who will be her heir." Page 177.

"Adoption of a son is allowed to prevent wuttun, or other property, from becoming without heir." Page 26, Appendix A.

We should need to fill the column with quotations to illustrate the doctrine of the *Summary* on this matter. It is clear as the noonday sun to any honest inquirer, that the sanction by the ruling power was never withheld, and never could be, where the adoption was unexceptionable. The true theory of this sanction will be expounded presently. When Captain Cowper, therefore, dives into the Poona *duftur*, and tells us there are precedents therein for refusing that sanction, we say that he is not to be trusted a single footstep out of our sight.

He has misinformed the Government too grossly in the matter of these authorities he professes to have quoted, to be believed for one moment in any statement he puts forward; while we are as sure that the general tenor of the Poona *duftur* stands in opposition to the practices of the Inam Commission, as we are sure that it has any existence.

Some years ago, when Government was seeking a precedent in the practice of native states for its refusal to allow succession to Inam lands by adoption, unless the express sanction of Government had been previously obtained, as a preliminary to asserting the right of withholding that sanction, references were made to the residents at Baroda, Sattara, and Indore, and the agent of the Governor-General for Scindia's dominions, in order to ascertain the practice prevailing in those States in the matter. The invitation was responded to by all of them, and their replies are carefully preserved in the recesses of the Secretariate. Now, one would have imagined that the parties chiefly interested in this inquiry, viz., the Inamdars in our territories, would at once have been placed in possession of these replies, which doubtless would have been done, had the replies coincided with the wishes of the Inam Commissioners. But it was thought sufficient to place these documents simply before the Commission, and all that has leaked out concerning them, from that time until now, is to be found in the contradictory opinions recorded in *Government Selections*.

It was of course hopeless to expect that any one in the position of the Commissioners would interpret those replies without a bias, and we have palpable evidence in the varying accounts that the statements of these gentlemen concerning them are not to be received for one moment. In such circumstances, the government of the Presidency, were it actuated by a straightforward purpose to get the matter sifted and ascertained, would have consented at once to place the replies in question in the editor's room, that the public might form their own judgment upon their contents. Within the last few months we have made several applications to Government

to this effect; but the fact is that every member of Lord Elphinstone's administration, including his lordship himself, has so often expressed an unqualified approval of the sophisms which have been permitted to impose upon them, that they now dare not throw open the archives of the Secretariate to a competent search. Our application for access to these and other documents referred to in the *Selections* was first refused on a matter of form, and then peremptorily, as follows:—

"*Bombay Castle, 28th January*, 1859.

"SIR,—I am directed by the Right Honourable the Governor in Council to acknowledge the receipt of your letter, dated the 20th inst., forwarding a schedule of certain documents which you request may be placed in the editor's room.

"2. In reply I am desired to inform you that Government is unable to accede to your request. I have the honour, &c.

(Signed) "H. L. ANDERSON,
"*Secretary to the Government.*"

Baffled in our attempts to ascertain the true import of the replies received from Baroda, and elsewhere, we made application direct to the authorities at one of the chief of the Mahratta States after that of the Peishwa. We are not at liberty to attach the writer's signature, but here was the reply:—

"Adoption was *never* refused when the Inamdar or his widow applied for the sanction. The Rajah's sanction was intended to operate as a general guarantee for the regularity of the adoption, as a protection of collateral descendants from the introduction of an adopted son totally unconnected by blood with the family in possession."

It is no reflection upon Lord Elphinstone's Government to say that it is not competent to decide this question. In the first place it is implicated in the Commissioners' proceedings; it has at all events given them its approval; and in the next, it is hopeless to suppose that the gentlemen who compose that Administration can ever give the necessary time to such an inquiry, if it is to be conducted in the usual official way by report upon foolscap. Captain Cowper, in a cause like this, would willingly produce a minute of 1,000 paragraphs, at six months' cost of labour, rather than stand a *vivâ voce* examination for ten minutes before competent examiners; and so would any one of the Commissioners.

The reply which we received from the authorities at —— is in exact accordance with the decision so lucidly expressed by Sir John Malcolm's Administration, in 1830. We are acting upon a false pretence in escheating property on the ground of the ruling sanction; and it is hard to believe that the Bombay government is not at last aware of the fact. In now refusing to furnish the professed sources of the Inam Commissioner's conclusions, it is but confirming the proofs we have adduced.

That the documents in question have been misrepresented, we are perfectly sure; and as the Government will not produce them, they should be included in the next motion for papers upon the Inam Commission in the House of Commons.

The native princes of India have no power by Hindoo law, and never had any, of refusing to sanction an adoption that was made in accordance with the Shastrees.

The right of sanction asserted by the present Government—not, be it remarked, for the purpose which such sanction served under native rule—but for the purpose of escheating the property, is worth tracing to its origin, which is neither so recondite nor inaccessible as may be supposed. It is worthy of note that the native authorities quoted in Borrodaile never once refer to the interference of the Sirkar under the term *sanction*. It is constantly affirmed by them that the consent or permission of the relations, or the caste, has to be obtained; but with reference to the Government, it is simply said that it should be *informed* that the adoption is going to take place; and this information would seem to be required in all cases of adoption whatever by the Hindoo law. Thus, in the very case quoted by Captain Cowper in his memorandum, we find the Shastrees replying to a reference made to them, in the following marked phraseology:—

"The Shastrees said a widow, notwithstanding she has no written permission from her husband, may, if she be desirous of adopting a son, do so by obtaining *the sanction* of the caste, and *informing* the ruling authorities. This law is written in the Muyookh, and corresponds with the custom of the country."

It is we who have converted, by a very natural and now very convenient mistake, the position of the ruler into one of active interference in a matter in which he is properly passive, unless the contemplated adoption be contrary to the law of the Shastrees, when it is his duty to place his interdict upon it.

Again, in case 86, we find the Shastrees consulted by the Court, incidentally quoting from the *Duttak Durpun* (Mirror of Adoption) the following passage:—

"These are the words of Vusishtu: A man without a son must make every endeavour to obtain a representative of a son, for the purpose of performing the Pind and Oodduk funeral ceremonies for him. A person being about to adopt a son, should take an unmmote kinsman or the near relation of a kinsman, having convened his kindred and announced his intention to the king, and having offered a burnt offering with the Vyarhiti prayers in the middle of his dwelling."

But this is not all. We need enter upon no exposition here of the authority of Strange's *Hindoo Law*, in which again the pretended right of sanction, or, as it would be more properly called, "right of refusal to sanction," is completely demolished. At page 63 of the second volume, we find the following opinion of the Pundit consulted in the disputed case:—

"When a boy is to be adopted, the adopter should invite the relations of either party, and entertain them at his house, *giving notice to the king* (or principal authority of the place) of his intention; and then the husband and wife, *waiting* upon the parents of the boy, and stating that they have no son of their own, should ascertain if they are willing to give them one of theirs; to which they assenting, the *Dattahom* must be performed."

The comment upon this, by one of the ablest of Hindoo jurists, Mr. Colebrooke, author of the *Digest of Hindoo Law*, to whom Sir Thomas Strange had constant recourse when in difficulty, is of great importance:—

"Most of these rules are general: they are not all imperative. *The notice to the King may be dispensed with.*" Page 64.

The late Mr. Ellis, another great authority, was still more explicit:—

The general law, however, which governs the choice of a son for adoption, is that the adopter may legally take him from his own, or from a different *gotr*; but he ought conscientiously to take him from

his own; and in preference, from his *Sapindas* (or near kindred); or in default of these, from his *Samanodacas*, or *Saculyas* (degrees of remote kindred). If, however, a person choose to reverse the prescribed order, though he thereby contract a sinful taint, he does not incur legal animadversion in consequence; and *I doubt if it would be competent for the King*, at the suit of any person whatever, to prevent the completion of the act: certainly it could not be reversed if once performed."

The passage lets in a flood of light upon the whole business. The reference to the King was made to secure the adoption of the proper party. A stranger by blood is never to be adopted while collaterals exist; and to prevent this, the ruling authority was vested with a controlling power, which we have managed to convert into the "right of sanction." We find Mr. Ellis, on a later occasion, forwarding to Sir Thomas Strange the ritual prescribed in the Datta Homam, extracted from the Datta Mimansa of Savan Swami:—

"The giver, *petitioning the King*, and having declared to his brothers and relations his intention of giving his son, named Vishnu, to become the son of Govinda, afterwards, on a prosperous day, to be fixed by an intelligent astronomer, shall bathe with the child, and celebrate the rite of *Punnyaham*."

We here learn the further important fact, that not the adopter, but the parties giving the child, are the proper informants of the King; and how completely such a fact destroys the doctrine on which we escheat the property, we do not stay to illustrate. It is sufficiently clear from these widely separated, but concurring authorities, what the right of sanction really is. It is the duty of the King to see that the adoption is made conformably with the law. We have declined the *duty*, while we have made its existence a pretence for enriching ourselves with the property.

The sanction of the King *is* required by Hindoo law to every adoption, but the practice of applying for it has long fallen into desuetude, except with the wealthy classes. The sanction never could be refused when the adoption to be made was agreeable to the Shastrees, the business of the King being to determine that. So irreversible, however, is the act, that the absence of the sanction does not invalidate it; but in cases of Surinjam property (held at the pleasure of the State) the King

has simply the right of refusing succession to it. The doctrine of escheat is perfectly explicit under Hindoo law, and it is that the King never can succeed to private property while "kinsmen by the funeral cake,"* or kinsmen allied by family, are in existence (Colebrooke's *Digest*, Vol. III., page 233). The Digest we have just quoted contains but one passage upon this *sanction*, and it is in strict accordance with the view we have expressed above. The passage will be found in the third volume, page 242, and is an extract from Vashishtu, the last of the twenty legislators named by Yajnyawalcya:—

"He who means to adopt a son, must assemble his kinsman, give *humble notice to the King*; and then having made an oblation to fire with words from the *Veda*, in the midst of his dwelling-house, he may receive, as his son by adoption, a boy nearly allied to him, or, on *failure of such*, even one remotely allied."

We have now quoted every passage we could find on the subject. We challenge the Inam Commission to produce a single passage from any authority whatever, Hindoo or European, that will give the slightest support to their doctrine. Every Hindoo authority that we have been able to refer to, speaks of the appeal to the King as a *simple notice*; and in no passage whatever have we found even the faintest glimmer of the light in which the matter is now held.

There is a compilation of selected cases decided by the Suddur Dewance Adawlut of the presidency, between the years 1820 and 1840. We do not know what led to the compiling of this selection, but we know that it was printed and circulated by the orders of Government in 1843, and that this question of the ruling sanction is therein fully and finally disposed of, in the teeth of the Inam Commissioner's deductions. The case is No. 7, Bhasker Buchajee *v.* Narroo Ragoonath. Two brothers, Buchajee Ragoonath (deceased), and Nursoo Ragoonath, the defendant, had lived together as one family, holding certain property, real and personal, upon joint tenure. Buchajee died, leaving no son to succeed him, and his

* *i.e.* by adoption.

widow having repeatedly applied to Nursoo and his relations to give her a son to adopt, and been refused, came down from Poona to Bombay, and adopted as her son the plaintiff in this action. The defence set up was that the adoption was invalid on the following grounds :—

"1st. That the adoption took place without the consent of the relations.

"2nd. That the adoption was made *without the sanction of the Sirkar.*"

The collector who tried the case in the first instance held that the adoption was invalid on the first ground, but did not pronounce any opinion upon the second. Upon appeal to the Suddur Dewance Adawlut, the collector's decision was upheld by the Chief Judge, and on the very same ground, no reference being made to the Sirkar's consent whatever. The case was decided even then against the law, and a motion was made for a revision of the decree, before a full court. The points which had been insisted upon by the claimant were the following :—

"1st. That the widow, having first sought a son of her husband's relations, and being refused, had a right to take one of another family.

"2nd. *That the absence of the Sirkar's order arose from the fault of the defendant, who would not give a son, or apply for leave from the Sirkar, and therefore was no ground for setting aside the adoption.*

"3rd. That a son, adopted under due ceremonies, has a claim to the whole of his parent's property, without reference to its situation.

"4th. That the Shasters nowhere declare *when* or *how* the adoption shall take place."

We venture to digress for a moment to direct the reader's attention to the wording of the second plea. It will be seen that the duty of getting the Sirkar's permission was alleged to devolve, not upon the person about to adopt, but upon the person about to part with his son. How effectually this fact disposes of the assertion that the Sirkar, by refusing its sanction, has power to escheat the property, it is not necessary to point out. The philosophy of the sanction manifestly rests upon the claim stated in the third plea; and it is strange that any man should ever have mistaken its nature. We have now to solicit the reader's attention to the following rather lengthy extract :—

"The court, in admitting the revision, referred the case back to

Poona for evidence, on the following points: 1st, to prove the fact of the adoption; 2nd, to obtain the opinion of the Shastrees upon the law as applied to the evidence; 3rd, to ascertain the practice according to the Peishwa's Government, with respect to the validity of an adoption made without the recognition of the ruling authority.

"The case was returned with the following evidence.

"Question preferred to the college at Poona, to know—1st, whether the permission of Government was requisite to the validity of adoptions under the Peishwa's Government; and 2nd, whether the absence of such permission was sufficient to invalidate the adoption? To which it was replied that for dependants of Government holding Surinjams, &c., the permission was requisite, *but not to others; and further*, notwithstanding this, an adoption made under due ceremonies (Veedeeyookt and Veedhan) could not be set aside."

[Signed by four Shastrees.]

"Questions were also put to the dufturdar at Poona, to know what cases were on record where the Sirkar's permission had been granted for adoptions made by others than surinjamdars; and 2ndly, whether any cases were on record wherein the adoptions had been annulled or otherwise invalidated for want of the Sirkar's permission? To which it was answered that about sixty cases were on record, where the Sirkar's permission had been granted to others than surinjamdars, and several cases also wherein the parties had been fined for adopting without the consent of the Sirkar: *but none in which the adoption had been annulled.* The following three cases were extracted and given in by the dufturdar:—

"Bhasker Madeo Joshee was adopted by Mahadjee Dinker; the adoption was contested, and on its being proved a fine was levied from the adopted party and from the wife of Dinker Madeo, Anpoornabae, for having induced her daughter-in-law to make the adoption. 2ndly. Anundee Baee, widow of Ramchunder Bhut Kelkur, adopted Mor Bhut Kelker, a son of her cousin, *without the knowledge of the Sirkar, upon which the Enam village of Umbee, in Nassick Purgunnah, was attached; but the adoption having taken place under due ceremonies, the village was released, and a fine of* 316 *rs. levied from the parties.* 3rdly. Saguna Bai, the widow of Bajee Shunker Sooklanekur, gave Lukshmon Ramchunder to her daughter-in-law to adopt; and to obtain a confirmation of this adoption and remove the attachment, which, in consequence of Saguna's death, had been placed over the property, a nuzzur of 45,000 rs. was paid to the Sirkar."

It is almost needless to recapitulate the facts thus elicited. The permission of the Sirkar was indispensable only in cases where Surinjam property was concerned, for the very manifest reason that such property was not hereditary; and the Peishwa had therefore the right of refusing to continue the grant to a descendant; while, if he sanctioned an adoption, it would be a virtual re-grant of the property. The sanction was rarely with-

held, however, even in these cases. In the case of Inam and other property, it is perfectly clear that the sanction could never be refused if applied for, while failure to apply for it was punishable by the levy of a fine, and that the Sirkar's *refusal* to sanction would not invalidate. The full Court passed the following judgment:—

"Neither length of time after the decease of her husband, nor the adoption having taken place at other than the place of residence of the parties, *nor want of the permission of the ruling authorities*, are sufficient grounds for setting aside an adoption once made with sufficient ceremonies.

"*That a son so adopted becomes heir to the whole of his adopted father's property.*"

This judgment was passed at some period between the years 1828 and 1830.

We shall now give the *coup de grace* to the fiction of the Commissioners, by a reference which we believe took all parties by surprise when first made. It so happened that Sir John Malcolm, before resigning the Governorship of the Presidency, penned with his own hand an elaborate minute upon the labours of his Administration. The minute will be found in an appendix to Malcolm's Government of India, published by Murray in 1833. An entire section of this minute is devoted to the question of adoption by Inamdars, concerning which the Inam Commissioners are bold enough to tell us that Sir John Malcolm's Administration held no settled views or practice. At p. 58, we read as follows:—

"Adoption by Enamdars.

"Among the numerous claims to succession to property, there are none that require more attention than those of adoption. This question came under discussion in consequence of two widows of a deceased Enamdar in the Northern Concan having agreed about the adoption by one of them of a boy, who in consequence entered upon the enjoyment of the Enam. A question arose as to the validity of the transfer of an Enam, by an adoption to which the sanction of Government had not been previously obtained. In the instance alluded to, the adoption had not received such sanction; and the collector therefore thought the Enam escheated to Government. Permission, however, had never been refused, having never been applied for; and I was of a different opinion from the collector, in whose view of the case one of my colleagues, Mr. Warden, coincides. The result of inquiries that were instituted confirmed the conclusions I had drawn from my observations in different parts of India, which were, that though adoption was, as

regarded surunjamee and jagheer lands, vitiated by the want of permission from the ruling authority, the same consequences did not follow in respect of Enams, which are often subject to nuzzur ; but on discharge of specific obligations stated in the sunud, or established by long usage, are confirmed as property in inheritance ; and that when an Enam is so held the right exists to transfer it by adoption, according to the Hindoo law. Upon this principle the right of inheritance to the Enam was not disputed, and the adopted son continued in possession. It may be added, that there is no right which, among Hindoos, is held more sacred than that of adoption. It is a sin not to adopt ; and among other obligations of duty, when there are no direct heirs, the adopted son lights the funeral pile of his deceased father."

It is impossible to exaggerate the importance of the document. If Sir John Malcolm and his Government were right, we are now engaged in a contest repugnant to morality, and disgraceful to us as a civilized people. We believe it is true, that the republication of this document has taken all parties interested in the Commission by surprise ; and we need not insist upon the discredit arising from the fact that a journalist should have thoroughly exposed misrepresentations which were held out by the Government as unanswerable. As opposed to the statements of the Commissioners, we find that the question came not only before the Sudder Adawlut Courts of Sir John Malcolm's administration, and was there carefully sifted and determined in favour of the Inamdar, but that it came before Government, as an appeal against a collector's decision in the Concan ; that on that occasion the impression of Sir John Malcolm, "drawn from his observations in different parts of India," was that the ruling sanction was not enforced with Inam property, but only with Surinjami ; and that upon the institution of inquiries, the correctness of that opinion was confirmed, and a resolution passed that the sanction should be enforced only with Jaghire estates.

Concerning the practice followed in native States, the universal disaffection existing in our own, from our conduct on this subject, and the concurrent testimony of every writer of weight, whether lawyer or statesman, discredit completely the fabrication that we are following the usage of our predecessors.

It is impossible to rise from a perusal of the minutes

recorded by the Inam Commissioners without the most painful suspicions that, committed at the outset to a false conclusion, they lacked the courage, when possessed of better information, to avow their error. In their accounts of the attitude assumed upon the Inam question by the three administrations that ruled the Bombay presidency from the year 1818 to 1831, they have most unaccountably falsified facts which are within the reach of every man who has the industry to investigate them; and the readiness shown by the Government to adopt the conclusions pressed upon it, evinces most lamentably the extent to which the conscience of the State is committed to the keeping of any man who has the skill to justify such falsifications. It must be clear to every honest and competent inquirer that the labours of Steele settled the question conclusively, in so far as Mr. Elphinstone's government was concerned. Before quoting the decision of Mr. Elphinstone's administration again, we shall here produce the conclusion arrived at by Mr. Hart, in his letter No. 583, dated 20th April, 1852, which has been fortified with an air of sufficiency by the present Commissioner, and adopted by the Government as unanswerable:—

"3. The proceedings of this Government and of the Honourable Court of Directors, whenever they have involved this question in any case, appear to have been invariably based on the principle that the sanction of Government, declared previous to adoption, has ever been requisite to give an adopted son any right to inherit an Inam or *any* other property emanating from the State.

"4. This principle is one which has been observed for a long series of years; its universality has been proved by reference to all the native States in India,* and its enforcement has been ordered by rules

* This is erroneous. The public have been refused access to the replies received from the native states; while the writer of this passage (Mr. Hart) expresses himself elsewhere thus cautiously upon these replies:—

"It may, I think, be concluded from the above letters that, as a general rule among the existing Governments of India, no adoption is looked on as valid unless previously sanctioned by the Sirkar, and that the same restriction exists with regard to transfer of Inams by gift or sale, though frequently not enforced where the property of the Inamdar is small."

drawn up after long and careful deliberation on the part of Government and the Honourable Court; while, on the contrary, the principle which I (perhaps erroneously) deem to be embodied in the proceedings which accompany your memorandum, No. 2,374, appears to have been first enunciated on the 18th May, 1825, by Captain Robertson (who was mistaken in the supposed facts on which he grounded it), to have been submitted without more investigation than he could have made in *one day* by Mr. Chaplin, and to have been immediately adopted by Government without further inquiry or deliberation than may have taken place before the 3rd of the next month.

"I think it will be seen that the proceedings of 1825 were neither on the part of the Commissioner, nor Government, so deliberate and well-considered as the rule which both before and afterwards was declared, and which seems to have always been acted on, viz., that the sanction of Government, declared previous to adoption, is essentially requisite to give any adopted son such a claim *against Government*, for the continuance to him of Inams or any other property emanating from the State, as to be the Government's right of escheat."

It ought to be sufficient to reply that the character of Mr. Elphinstone's administration utterly precludes our reception of such fictions. Had the assertion been made of the Falkland administration, it might have obtained a *primâ facie* credence; but when it is made of the Government of Mr. Elphinstone, it is a forlorn attempt to evade a difficulty which was felt to be fatal to the Commissioner's proceedings.

The letters of 1825, concerning which it is thus modestly suggested by the Commissioner, that they were "neither so deliberate nor well-considered" as they should have been, and elsewhere, by another Commissioner, as having been written "under some complete mistake or misapprehension," are the letters of Mr. Chief Secretary Newnham to the Commissioner of the Deccan, dated respectively the 4th March and 3rd June, 1825. In the former of these letters, Mr. Newnham had stated as follows:—

"Inam lands being private property, it is desirable that the owner should be enabled to dispose of them as he pleases."

Now this decision was given in answer to an inquiry from Mr. Chaplin, the Commissioner of the Deccan, as to whether permission was to be given to certain widows of an Inamdar to adopt a successor; and guided, as we cannot doubt, by the inquiries instituted in the Deccan,

and summarized by Steele, Mr. Elphinstone's Government laid down the broad principle which these letters enunciate. We refer to the decision simply to show the basis upon which Mr. Elphinstone's Government arrived at the determination expressed in the subsequent letter of 3rd June, as follows :—

"Children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property."

Now, whether Mr. Elphinstone's Government was fully satisfied as to the practice previously existing under the Peishwa, or not, is a matter of secondary moment. It is clear that he intended to affirm emphatically that, Inam lands being private property, and not dependent upon the pleasure of the State, the holders should stand on the same footing as the holders of any other kind of private property. If a sowcar or a banian might adopt a successor to his money-bags, so might an Inamdar to his holding. We have applied to Government for permission to peruse the correspondence quoted thus scantily, but have been denied access to it also. If any doubt, however, existed as to the meaning of the decision, it is set at rest by the very next paragraph, which we believe ran thus :—

"With regard to Jaghires, no adoption can have any effect, unless it is expressly so declared by Government."

The exception proves the rule, *i. e.*, to the apprehension of all parties but the Inam Commissioners.

Left in no doubt whatever as to the law and custom of the country, we find Lord Clare's administration, which succeeded that of Sir John Malcolm, issuing the following circular letter to all the collectors in the presidency, the circular being in point of fact a mere reproduction of that of Mr. Elphinstone in 1825 :—

"*Circular No.* 1,549.

"To ——— "*Bombay Castle, 24th October*, 1831.

"It having come to the knowledge of Government that some doubt exists as to the particular cases in which adoptions are allowed, I am directed by the Right Honourable the Governor in Council to communicate to you the following instructions for your guidance :—

"2. As a general rule in the Deccan, Government admits that

children adopted with such forms and sanctions as may have been usual should succeed to Inam lands, or whatever may be considered private property.

"3. With regard to jagheers, no adoption can have any effect, unless it is expressly so declared by Government.

"I have the honour to be, &c.,

(Signed) "W. NEWNHAM, *Chief Secretary.*"

It will be observed that Mr. Newnham was still secretary. He had been so through all three administrations, and must have had this question of adoption by Inamdars at his finger's end. He was secretary under Mr. Elphinstone, and wrote the letters of 1825; under Sir John Malcolm, and assisted the administration in arriving at the conclusion recorded by that governor; under Lord Clare: and therefore, when the question was again raised, simply fell back upon former authoritative decisions.

The principles upon which the question was settled were at once definitively adopted when Borrodaile and Steele had completed their inquiries in 1825; and here is the radical error of Captain Cowper's reasonings. These inquiries were instituted by Mr. Elphinstone in confessed ignorance of the laws and customs of the Deccan, and other parts of the presidency; and the uncertainty which so much perplexes the Commissioners (as they themselves tell us) arises from the ridiculous affectation of regarding the Deccan as administered upon settled principles immediately upon its acquisition. During the seven years intervening between 1817 and 1825, we might find perhaps a score of precedents, reversed from the date of the publication of Steele's *Summary* and Borrodaile's *Reports*, the very groundwork of the new code; while the whole fabric of the Commissioner's argument rests upon the fact that, prior to 1825, he finds one (he only adduces one) case in which the sanction was insisted upon. We say that the fact is worthless, and so it would be if it enumerated fifty cases, instead of one. In or about the year 1825, the appearance of Steele's *Summary* settled the question definitively that Inam lands were private property, given, sold, or transferred at the pleasure of the owner; and that consequently Govern-

ment had no right to interfere with succession thereto by adoption.

That a collector here and there continued to harass the Government for instructions, can create no surprise in the mind of any one acquainted with the habits of some officials; but circular after circular was issued to remove all doubt upon the subject; until our *new lights* arose, to find in the ignorance of Elphinstone, Malcolm, Newnham, and Clare, a foil to their own research. The best interpreters of these circulars are *the people;* and the violation alike of their letter and their spirit, in our day, is far from flattering to our rule.

Let us see how the matter tells. We quote from Mr. Goldsmid's memorandum, of 15th June, 1852 :—

"56. In a petition presented to Government, under date the 19th March, 1850, one Narayen Bhut Bin Gopal Bhut Kurvey, stated that he was the adopted son of one Gopal Bhut Kurvey, who held as hereditary Inam the village of Nandeor Dussuk, Talooka Nassick, and prayed to be allowed to enjoy the same. Petitioner admitted that the adoption was not sanctioned by Government, but that 'it took place under the impression, from the circular of 1831,* that Inam should be considered as private property, and should revert to the adopted sons as private property.'"—*Selections*, No. XVII., page 23.

Can that man be blamed for his impression? Why, he has interpreted the very meaning of the circular; the very meaning that Elphinstone, and Malcolm, and Clare intended he should put upon it. *Reader, the man's title is upset, and he is a beggar, under orders dated Bombay Castle, 14th September*, 1852!

We shall close this chapter with an illustration of the Government attitude upon this subject towards other property classes of the country. The reader will probably remember well the murder of Mr. Manson, the political agent of the Southern Mahratta country, some short time since. The fort and district of Nurgoond, situated about twelve miles south of the Malpurba, were the hereditary possessions of an ancient Brahmin family, coëval in point of time with the rise of the Mahratta dynasty. Brahmins who possess old hereditary estates

* Lord Clare's Circular, quoted above.

are styled Suwusthanees; and no description of property in Maharashtra was regarded as more inalienably vested in its inheritor. Nurgoond, with other Mahratta possessions, had fallen under Hyder Ally in 1778, whose successor, Tippoo, upon attempting to impose a heavier tribute upon its chief than the Mahrattas had exacted, was reminded by the Minister of the Peishwa, the famous Nana Furnuvees, "that Jagheerdars, on the transfer of districts, were liable to no additional payments; and that the rights of Suwusthanees, who had been guilty of no treason against the State to which they owed allegiance, had been invariably respected." But the power which Nana Furnuvees represented was heathen; and as remonstrances were without avail, we find it declaring war against the dreaded Mysore chief, to protect the rights of its old subject—rights which the Christian Government of England, half a century afterwards, escheated upon the pretence of the ruling sanction. If the reader will refer to the first chapter of Grant Duff's third volume of the Mahratta history, he will find all but the last part of this story related at length. Our war with the Peishwa broke out in 1817, and at its close we find Sir Thomas Munro, in minuting upon the Jagheerdars of the Southern Mahratta country, noticing the service rendered us in the campaign by the Nurgoond family, and confirming that family absolutely in its possessions. We find, accordingly, that in 1820 a formal treaty was entered into between the British Government and the Chief of Nurgoond, by which his possessions were guaranteed to "himself and his heirs for ever, from generation to generation;" and to mark our sense of the services he had rendered, a clause was added that the succession should be given and renewed for ever "without any nuzzerana being demanded." Thirty years afterwards it was discovered that the chief had no sons; when, utterly regardless of all the collateral members of the family, the Administration of Bombay declared that there were no *heirs* to the property, and that it would escheat to Government upon the chief's death! The man memorialized the Government, until weary of petitioning, and seeing nothing

but beggary for his dependants on his death, he at last plunged into crime in his despair. Is our self-love so intense that we cannot place ourselves for a few moments in the position of the family against which this sentence of beggary was pronounced? Were such a decree passed in any State of Europe against the possessions of a private family, the whole Continent would ring with the story; but the three or four men who compose the Bombay Council will pass such a decision without scruple, and then execrate the murderers of Manson as the vilest of the human race!

A more shameless story of ingratitude, rapacity, and crime than this confiscation of the Nurgoond family's estate could not be found in our annals. The pretence upon which the property was declared an escheat, we say, was a lying pretence. No Mahratta or Mogul prince that ever reigned would have ventured to disallow an adoption, that it might declare Suwusthance property an escheat.

It is difficult in many things to make the English reader sympathize with our Hindoo fellow-subjects. It is the fact, however, that we break the fundamental laws and outrage the most cherished convictions of the Hindoo people by our conduct in this matter of inheritance. Under their law, even a grandson does not inherit his grandfather's property as such; but is adopted as a son, and inherits as a son. We have pledged ourselves a thousand times over to respect the laws and customs of the people of India. Common sense demands that we should do so; and it is incumbent on the Parliament of England to put a stop to such flagrant violations of justice forthwith.

Chapter IV.

HISTORICAL.

The attempt which has been made by the Inam Commissioners to bring Mr. Elphinstone into complicity with their proceedings is one of those acts not infrequently successful from the very boldnes of their nature. We proceed in the present chapter to trace the history of our attitude towards Inam properties from the first: a course which will make our departure from the principles of the men who won and consolidated our Indian empire palpable to every one who will have the patience to read this narrative to the end.

It is necessary to premise that the archives of the Bombay Secretariate, for certain reasons, have been closed against us: otherwise much that may seem wanting in our statement would have been supplied.

The circumstances under which Mr. Elphinstone's proclamation of 1818, guaranteeing the landholders of the Peishwa's territories in their possessions, was promulgated, must first come under review. When that manifesto was issued, the power of Bajee Rao, the Peishwa, was yet unbroken; while the assurances it breathed, and the reputation of our Government for scrupulous adherence to its engagements, were among the most powerful causes which contributed to his ruin. It is hard to say whether the Mahrattas or our own Government attached the more importance to the appearance of that manifesto. It was carefully timed upon the fall of Sattara, up to which date the pursuit of the Peishwa had been productive of nothing important, if we except the political effect of holding him up as a fugitive to the eyes of the country. The repulse at Kirkee, and the stand of the Grenadiers at Korygaom, were all the successes of the

campaign; and the historian of the war has distinctly affirmed that, in the various skirmishes which ensued, no advantageous result had been gained by either party. The truth is, we fought Bajee Rao first with the proclamation, and then with the Sattara family, which most opportunely fell into our hands at Ashtah, some ten days after its appearance. The assurances of the proclamation, and the reinstatement of the Rajah of Sattara, ruined the Peishwa; and our deliberate withdrawal now from the pledges then given, merits the reprobation of every conscientious man, however specious the arguments upon which that withdrawal has been recommended. At the risk of tiring our readers with quotations, we shall here place before them the account given of this proclamation by the late Grant Duff, himself one of the chief actors in the business, and most probably one of the authors of the document itself:—

"A manifesto was at the same time published by the Commissioner, in the name of the British Government, succinctly representing the whole conduct of Bajee Rao, and stating the reasons of its being incumbent on the British to deprive him of public authority; to exclude him and his family from all concern in Deccan affairs; to take possession of his territory, and to govern the whole under the authority of the Company, excepting a small tract to be reserved for the Rajah of Sattara. It was declared that there should be no interference with the tenets of any religious sect; that all wuttun, INAM LANDS, established pensions, and annual allowances, should be respected and continued, provided the owners withdrew from the service of Bajee Rao, and retired to their habitations in two months from that date. Farming of revenue was to be abolished, and the hereditary district and village officers were called upon to reserve the revenue, otherwise they would be compelled to make good the payments; and should they, or any other wuttundars, afford aid or pay money to the deposed Peishwa, their wuttuns were declared liable to confiscation. No notice was taken of Jagheers, as it was soon understood they would be kept or restored, according to the readiness with which the holders under the Peishwa should tender their allegiance to the new Government; and whilst retained, they became a powerful security for the fidelity of the claimants.

"The reader will be able to judge of the merits of this Proclamation, and how well it was calculated to the end in view; especially when seconded by strenuous and persevering exertions on the part of the military."—*History of the Mahrattas*, vol. iii., page 341.

The manifesto was issued on the 10th February; the Peishwa keeping the field until the 3rd June follow-

ing, when he surrendered to Sir John Malcolm. Let the reader mark well the following extract from this document :—

" All wuttuns and Inams (hereditary lands), wurshasúns (annual stipends), and all religious and charitable establishments, will be protected, and all religious sects will be tolerated, and their customs maintained, as far as is just and reasonable."

Now the recollection of this proclamation must be fresh in the mind of every man of mature age in the Deccan. It is only forty years since it appeared; and as the great charter of the properties of the influential classes of those territories, every word in it must have been weighed with the most jealous scrutiny. The circumstances under which the manifesto was issued are such, and its assurances so ample, that our present conduct towards the rent-free tenures of the soil must wear the very gravest aspect in the eyes of the people. We cannot but appear to them as destitute of good faith; and it were better for us to have lost the fairest provinces of the empire, than to have fallen thus low in the estimation of those in whose presence we are never tired of vaunting ourselves as their moral exemplars.

On the 25th October, 1819, Mr. Elphinstone left Poona to assume charge of the Government of Bombay, and on the same day addressed a very important despatch upon Deccan affairs to the Supreme Government at Calcutta, in the course of which we find him reviewing the question of Inam properties as follows :—

" It having been promised, by the Proclamation of Sattara, that all Inams were to be continued, all collectors were authorized to confirm those of all persons who should make their submission before a certain day fixed by proclamation; and subsequently, all Inams were confirmed, even those of persons who had failed to make their submission. Although it is probable that many lands are held without authority under this denomination, it did not seem expedient to excite alarm by a scrutiny of the tenure before the inhabitants had acquired confidence in our justice and moderation. I, however, fixed rules for determining on all claims that might be questioned, and those rules may hereafter be applied more extensively when a survey should have been commenced. The principle of those rules is to confirm all Inams held up to the war, if granted by the Peishwa, or those of his officers whom he entrusted with power; to resume all granted by inferior officers since 1803, and all granted by Patels within the last thirty years, unless

authorized or admitted in accounts by the Peishwa, and to restore all resumed in the same manner since 1803."—*Elphinstone's Despatch*, 25th October, 1819.

We learn from this despatch that, under Mr. Elphinstone's directions, the Inams of all holders had been distinctly confirmed to them subsequently to the proclamation itself, and that, while he contemplated an inquiry into the titles upon which they were held—an inquiry perfectly unexceptionable and just—he had already determined upon the principles which should guide its decisions, and embodied them in a set of rules. We find, accordingly, that a circular order* had been issued by him on the 19th March, 1819, to all the collectors of the Deccan, containing the rules in question, which were as follows:—

"CIRCULAR, 19TH MARCH, 1819.

"*Rules for deciding on the Validity of Claims to Enams.*

"1. All Enams granted under the Peishwa's sunnud to be confirmed, provided the claimant obtained possession, and that no subsequent resumption took place.

"2. All Enams made under the Mootalickee seal by sirdars vested with full power, to be confirmed; provided no subsequent resumption took place.

"The following are all who had the Mootalickee seal in Bajee Rao's reign:—

"1. Balajee Koonjeer.
"2. Nana Pooruudurray, six months in 1802 and 1803.
"3. Balshashtree, for four years, beginning in 1803. It was used in extremely few cases of Enams.
"4. The two last Vinchoorkuro (Nursing Khunderao and Vithul Nursing), from 1803 to 1818 in Khandeish only.
"5. Khunderao Rastia } in the Conkan only.
"6. Annyaba Rahatekur }
"7. Purshram Bhaoo, or Chintamunrao, in the Carnatic only.
"8. Morro Bappoojee Phudkey, Sirshubhudar of the Carnatic, in the Carnatic only.

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* In the teeth of these documents, a recent apologist for the Inam Commission, in the pages of the *Bombay Quarterly Review*, supposed to be Captain Cowper himself, wrote as follows:—

"Mr. Elphinstone's proclamation neither expressed nor implied any confirmation of any Inams. Mr. Elphinstone's specific instructions to all his subordinates were, that the permanency of every exemption from assessment allowed on the conquest of the country would depend on a valid title being subsequently established." *Prævaleat veritas!*

"3. All Inams granted by sirdars and other superiors to all functionaries previous to 1803 shall be confirmed, provided the incumbent have had uninterrupted possession up to the breaking out of the war.

"4. All granted without the Peishwa's authority since 1803 are liable to resumption; but if held for the last ten years, they are to be assessed at only half the full rent, and on the death of the present incumbent.

"5. Where *bonâ fide* granted for the support of the temples and other religious institutions, they are to be confirmed.

"6. Ancient and authentic Inams resumed by the Peishwa or the Chief Minister since 1803, to be restored.

"7. Grants or resumptions inserted in the accounts rendered to Government are to be considered as authorized: if not so inserted, they are to be considered as unauthorized, unless there be other proofs of the concurrence of Government.

"8. Grants made by the Potails, and other inferior functionaries, are never to be held binding unless confirmed by the Peishwa's Government, or unless held without interruption for at least thirty years. When grants of this kind are made in return for money, *bonâ fide* advanced for the expense of the village, they may be left until the death of the present incumbent, unless the debt be previously discharged by the produce."

We shall have by and by to contrast the principles upon which these rules were based with the Act passed, forty years afterwards, to sweep all Inam properties into the British Treasury.

But the government of Mr. Elphinstone is distinguished in our history by the fact that we owe to it the compilation of the code of laws now administered in Western India. It is no part of our purpose to enter here upon any eulogy of that code, which has won the admiration of many statesmen, and contrasts most favourably with Regulations of the sister Presidencies. We are simply about to show the principles upon which that code dealt with Inam tenures, in order subsequently to point out the disingenuous character of the statement that the present policy of confiscation is in any way consonant with Mr. Elphinstone's views. The code consisted of twenty-seven Regulations, numbered I. to XXVII., of 1827. The Presidency of Bombay at that period comprised certain provinces distinguished as Non-regulation, and others known as Regulation provinces; the former consisting mainly of the recently acquired territories of the Peishwa. The new code

opens with the following preamble, reflecting in every line the massive strength and integrity of purpose so conspicuous in the character of its framer :—

"Whereas it is essential to good government, to the full and certain attainment of the advantages of experience in legislation, to public prosperity, and to the security and happiness of the subjects of the State, that the rules by which the administration of the country is conducted should be publicly known: It has therefore been deemed expedient that all regulations which may be passed by the Government of Bombay, affecting, in any respect, the rights, persons, or property of its subjects, and the reasons for passing the same, should be published, with translations in the native languages, and formed into a regular code; and that such Regulations should be of paramount authority on the points which they determine to all other acts, orders, or measures of Government: And whereas from the year 1799 to the present period various Regulations have been passed in accordance with these views by the Governor in Council, which it has been resolved to consolidate, with such alterations as have been approved, into a more perspicuous and convenient form: The following rules have therefore been enacted, to have effect from such date as shall be prescribed in a Regulation to be hereafter passed for that purpose."

The first chapter of the code declares all Regulations issued prior to the 1st January, 1827, rescinded, and thus reduces to one level the Regulation and Non-regulation provinces. The second chapter enacts that the code shall be translated into such languages as may be required for the use of each district, and that copies of the translation "shall be kept at each Zillah Court, to be inspected by any one who may desire." The third chapter enacts that the code shall be in force at all such places, and from such periods, as may be decreed by Regulation. The fourth chapter declares that in case of war or rebellion, the Governor in Council may suspend the Regulations by proclamation.

The Regulation containing these chapters is a model of legislative wisdom, secure in its simplicity of easy comprehension by the people, and providing effectually against arbitrary action on the part of its administrators. The code was drawn up, as the preamble carefully states, for the information of the people on the subject of the laws affecting "their rights, persons, and property." Care was taken that translations of the code should be placed within the reach of every man interested in its

provisions; and all power was taken from Government to suspend the code, except in the case of war or rebellion.

The code being completed, the next thing to be done was to declare in what parts of the Presidency it was to be the law, and when it should come into operation. Accordingly, the first Regulation which followed the code, viz., Regulation XXVIII., declares that it should take effect from the 1st September, 1827, "throughout the Bombay territories heretofore subject to the Regulations." But what of the Non-regulation provinces? Were they to be exempted from its jurisdiction, or what? The very next Regulation, viz., XXIX., of 1827, passed on the same day as Regulation XXVIII., brought the Deccan and Khandeish under the code also, and from the same date, viz., the 1st September, 1827. Now, it is not saying too much to affirm that the most important Regulation in the whole code was Regulation XVII., on the subject of the land revenue; and that caps. ix. and x. of that Regulation, disposing of the question of titles to exemption from the land revenue, are the most important parts of it. But it has been found out by the Inam Commissioners that Mr. Elphinstone never intended that the law of prescriptive tenures in his code should apply to the Deccan. It is impossible for us, without unduly extending the limits of this pamphlet, to enter upon a consideration of the line of argument resorted to for the purpose. It is a strange comment upon the danger to which the Indian Government stands exposed from the absence of any proper deliberative body in the country, that the fact was held to be established; and that a statute law, which had been in operation for five and twenty years, should have been blotted out, upon the *ex parte* representations of a man whose name was committed to the policy of confiscation. In attempting to prove that such law was never designed to apply to the territories conquered from the Peishwa, we find this gentleman, Mr. Hart, committing to paper the following ominous sentences:—

"3. In treating of this subject, I shall first endeavour to carry out the instructions contained in the 6th paragraph of your letter under

reply; and I think that the most satisfactory mode of doing this will be to divide the question of the applicability or otherwise of the Rules of chapters ix. and x. of Regulation XVII. to the Deccan, &c., into two other questions: first, whether or not those rules *do* apply to the districts in question; secondly, whether or not they *ought* to do so."

"5. It is evident, of the two questions stated in my 3rd paragraph, the second is of, by far, the greater importance; for if it can, as seems beyond all doubt the case, be answered decidedly in the negative, the answer to the first question is of importance only for the purpose of deciding whether the proposed enactment should repeal the Rules in question, or simply declare them already inapplicable; a matter of not much final moment."—*Selections*, No. XXX., page 137.

So that it was nothing, according to Mr. Hart, that every landholder in the Deccan had been measuring his title for nearly thirty years by the law now to be upset; nothing, even were it proved that the law was intended to apply to the Deccan; nothing, that Mountstuart Elphinstone was its author:—the Government was simply interested in inquiring whether it ever *ought* to have been made the law!

Mr. Hart will doubtless appear to give evidence before the Committee which we trust to see appointed for inquiring into this matter, and we can but indicate the sources from whence that Committee may draw its information to establish the grievous wrong which has been inflicted on our Indian fellow-subjects. The Committee should have the following papers before it, and be fully informed of their relations with one another:—

Regulations XVII. of the code—The law of prescription.
Regulation XXIX. of 1827—Bringing the Deccan under its operation.
Regulation VI. of 1833—In an ingenious perversion of which Mr. Hart's strength lies.

It will be found that in so far as the first Regulation (No. XVII) is concerned, chapter ix. discourses "of titles to exemption from the payment of land revenue;" defining, in point of fact, the term of enjoyment required to give a prescriptive title to land. Chapter x. has a widely different intent: it consists, according to its heading, of "rules for examining and deciding upon

claims to exemption," and is, in point of fact, the law of procedure against such parties as the collector had reason to believe held no sufficient title to exemption from the land revenue.

The next Regulation (XXIX.) had a very simple object. It was passed on the same day that the code became law, and is entitled as follows:—

"A regulation for bringing under the operation of the Regulations (the Code) the Bombay territories in the Deccan and Khandeish."

Up to this date those territories had been administered as Non-regulation provinces; when by the Act in question they were put upon the same footing as the rest of the presidency. But as owing to their recent acquirement it was thought necessary to modify the application thereto of certain sections of the code, the Act proceeds to declare what those modifications are. Regulation XVII. is left almost untouched: chapter ix., containing the law of tenures, wholly so. And yet, because a section of chapter x., conferring a right of action in the civil courts against a collector's decision in Inam titles, is declared inapplicable, the whole of chapters ix. and x., in other words, the whole law of tenure, was declared by Mr. Hart, to the satisfaction of Lord Falkland's Government, never to have been applicable to the Deccan at all! The fact is so strange that it is almost incredible.

The other Regulation we have instanced is No. VI. of 1833, and reduces, in certain cases, the term of prescriptive enjoyment required in Regulation XVII. of 1837, from 60 years to 30 years, but leaves untouched Clause 3 of the ~~sixth~~ *ninth* chapter, quoted *in extenso* above. The argument by which Mr. Hart was held to have established the fact that the only law upon tenures in the Presidency had no application whatever to the greater part of that Presidency, will be found at length in Government *Selections*, No. XXX., pages 137–146.

Even were it the fact that the Regulation law of prescriptive tenure was not designed by Mr. Elphinstone to apply to the territories then recently acquired from the Peishwa, we have conclusive evidence in the rules laid

down by him above, for determining upon the validity of all Inam claims, of the views he entertained as to what would constitute an equitable term of prescriptive enjoyment in the country. We have already quoted those rules; and before bringing the reader face to face with the present Inam Act, we must call attention again to the principles upon which they were framed.

A reference to the rules will show that they are as follow:—

All Inams held under sunud shall be respected, if the sunud were granted by competent authorities, and not subsequently resumed. The authorities are—

"1. The Peishwa.
"2. The Sirdars holding of the Mootalickee seal.
"3. Any Sirdar, or other superior, granting an Inam prior to 1803."

It is here necessary to point out that 1803 was the year which witnessed the breaking up of the great Mahratta empire of the Peishwa, Scindia, Holkar, and the Gaickwar. The treaty of Bassein, by which the Peishwa sacrificed his independence as the price of the protection granted him by ourselves, was framed in this year, and the interests of that prince henceforward made dependent upon our own. Poona had been burnt by Holkar in the preceding year; and the Peishwa, when a fugitive from the city, sought our alliance, by consenting to maintain a subsidiary force, and to receive an English resident at his court, as the price of our assistance. It was the only course by which he could save himself from becoming a pageant in the hands of Scindia or of Holkar, as the Rajah of Sattara a century before had become in the hands of the Peishwa's own ancestors. Hardly was he re-established on his musnud than he commenced plotting against his deliverers; and then began that terrible scene of oppression in his dominions which ended only with his reign. The protection which the presence of the British troops afforded, and the power and security they gave him, presented opportunity for the unchecked display of the worst features of his character; and under the administration of the notorious Trimbukjee Dainglia—the murderer of Gungadhur Shastree

—the property of the people, from the highest to the lowest, was placed at the mercy of the despot, who derived all his strength from British countenance. Bearing these facts in mind, the reader will not require us to enlarge upon the reasons or the propriety of Mr. Elphinstone's 6th rule, running as follows:—

"Ancient and authentic Inams, resumed by the Peishwa or the Chief Minister since 1803, shall be restored."

Such a provision reflected honour upon our name, and was worthy of the man who framed it. But there was a large class of valid Inams, as Mr. Elphinstone knew well, for which the proprietors could produce no sunud, and to meet their case we find him enacting Rules 7 and 8. Under the former of these rules it is provided that if Inams were entered in the revenue accounts as authorized, that fact shall give them validity; while Rule 8 declares that any land held uninterruptedly for thirty years shall be held to have obtained a prescriptive title.

In close accordance with this term, we find his code, which was passed ten years afterwards, enacting that twelve years' uninterrupted possession, before 1817, or twenty-two years in all, should confer such a title. We now proceed to examine the Inam Act, which, five-and-twenty years afterwards, swept every provision and principle away together.

Chapter V.

THE INAM ACT, AND THE ONUS PROBANDI.

Before entering upon an examination of the Inam Act, it is necessary to say a few words as to its intention. It has been suddenly found out by its concocters that the Act was designed, not to resume Inams, but to confirm them. The prominent attention attracted to the subject amongst Europeans, and the odium which it was felt was beginning to attach to the proceedings of the Commission, led the Government of Bombay some time since to circulate a plausible minute, drawn up by the Inam Commissioner himself, to show the purity and disinterestedness of the objects contemplated by the Act. We are roundly assured in this minute that the real objects of the measure are misrepresented; that the old law was oppressive and unjust; and that the new Act is but the expression of a humane purpose to give a valid title to Inam properties. The boldness of the statement is most surprising; and it can hardly be matter of surprise that, being published under the *imprimatur* of the Government, it should have imposed upon many parties the conviction that the obloquy heaped upon the Commission was unmerited. We thus find that Colonel Sykes deliberately assured the House of Commons, in the debate on the 1st February, that a good deal of misconception was abroad as to the true intent of the Act, which was not to confiscate property, but to save it; and Lord Stanley himself quoting the assurances of Captain Cowper upon the subject on the 14th February. We say, again, that the boldness of the statement is

most surprising. It is this same document which produces a spurious minute of Sir Thomas Munro's to prove that Inams were resumable at pleasure, and which states that the disaffection and rebellion in the Southern Mahratta country have sprung from purely religious causes: a statement that has since been officially contradicted by proceedings in the case of the Jumkhundee Chieftain at Belgaum. A better illustration of the value of the press in India could not be afforded than the instant exposure which overtook these misrepresentations upon the spot; misrepresentations which otherwise must have fatally misled the English public.

The Inam Act had but one object, and that was to swell the revenue by the resumption, upon one pretence or another, of every Inam in the presidency; the fact being that no such property can escape resumption, at an earlier or later date, under its provisions. The people see its operation and intention, and would hasten to cast off our yoke if a chance presented itself. The best exponent of its intentions is of course its framer; and we fortunately possess the means of ascertaining conclusively what those intentions were. Mr. Hart, the Commissioner, was the framer of the Act; and at pages 125 to 129 of No. XXX. of the Government *Selections*, the argument by which he pressed its enactment upon the Administration is given at length. Amongst the reasons entertained by him, there is not one that is not based wholly upon the inconvenience experienced by Government in dealing with Inam lands under the old Regulations; while the following are the clinching arguments which led to the passing of this very compassionate measure:—

"9. Another reason for obtaining the enactment suggested by me is, that, owing to obscurities in the existing Regulations, there are some doubts as to the authority of the Governor in Council himself to order the absolute resumption of estates held as Inam, however groundless may be the title by which they are held; and though these doubts may not appear, of themselves, a sufficient reason for the necessity of a new law, it would be well to have them removed by a clearer and more definite enactment than any now existing. I have, moreover, strong grounds for believing that the Court of Sudder Adawlut in this

presidency believe that some modification of the existing law is necessary to justify Government in any interference with the enjoyment of an alleged Inamdar, however unauthorised and fraudulent that enjoyment may be.

"10. Lastly, it would appear, from the reply of the Remembrancer of Legal Affairs at Bombay to a reference recently made to him by Government, that he is of opinion that as the office of the Inam Commissioner is not one recognised by the present Regulations, it is better that Government should 'keep him out of sight;' and he points out that for the same reason such an officer has no sort of authority to enforce the attendance of witnesses or the production of evidence, however indispensable it may be to a just conclusion on any claim; and I cannot help thinking that it would be far better for Government to close the Inam Commission at once than to admit of the continuance of such a defect as this in its constitution."—*Selections*, No. XXX., pages 125-9.

How infinite the tenderness out of which the Act sprung! The Commissioner was only desirous to give a valid title to Inamdars; not to clothe himself with the power to resume their lands. The simple truth is, that Act XI. of 1852 was carefully drawn up by the Commissioner to meet the weak points of Inam titles, and overthrow them upon every ground that admitted of dispute.

It is worth while, for a few moments, to admit the statement to be well founded, that we may congratulate its authors upon the admirable way in which it has served its new-found and disinterested purpose. Turning, then, to Appendix E of the official report of the administration of the presidency in the year 1855-56, the last synoptical account we have of the Commissioners' proceedings, we find the result of their labours recorded as follows:—

"INAMS.

"Declared hereditary or permanent	2,948
Ditto continuable for two or more lives ...	132
Ditto ditto to present incumbents ...	3,134
Ditto at once assessable	671
Ditto to be Surinjam	26
	6,911"

The reader will understand, we suppose, that the resumption of the four last classes of Inams at an immediate or more remote date has already been decided

upon: that is to say, the titles of 3,963 estates, out of the 6,911 investigated, have been declared invalid. But the operation of the Act reaches much further. Of the 2,948 holdings declared permanent or hereditary, there is not a single estate but must fall into the hands of Government at no very distant period, from the fact that the provisions of the enactment are framed to limit the succession to Inam properties. The only estates which can by possibility remain permanently alienated are the Temple endowments, and these are carefully preserved under Rule 7 of Schedule B:—

"All lands held for the support of mosques, temples, or similar institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted."

Within a hundred years, if this Act be continued in force, there will not be a single personal estate existing in any part of the Deccan; while the Temple endowments may remain until doomsday, for anything it provides. In the face of these facts, the Inam Commissioners have the boldness to come forward and tell us that the Act was passed, not to resume, but to continue the personal holdings! The public may well be sick of the very word Responsibility. If Responsibility mean anything of value, it should mean that the Administration, which has deliberately attempted to mystify the Parliament and people of England on a question of such vital importance to the peaceful settlement of India, should be publicly charged with the guilt of such conduct. We are not actuated by the impulse of the demagogue, but we cannot repress our indignation at such glaring absence of political morality. When the Bombay Administration endorsed Captain Cowper's statement that the Inam Act was designed to confirm, and not to resume Inams; and that the rebellion in the Southern Mahratta country arose from religious causes; and that Inam lands were resumable at the pleasure of the State: it could do so only under a mental reservation which we know not how to justify, and which must serve as an apology for any exhibition of warmth in these pages.

The reader will remember that Mr. Elphinstone's rules directed the restoration of all authentic Inams resumed during the last fourteen years of the Peishwa's reign. The reason of this was founded in justice, and reflects a strong light upon the character of those principles by an adherence to which the prestige of the English name became so high in the country. From 1803 to his deposition, Bajee Rao was retained upon the musnud solely by our influence; and Mr. Elphinstone, with that high-toned principle which guided his administration, determined, upon our accession, to make all the atonement in his power for the purpose to which that influence had been prostituted. But another era has arisen in India during the last twenty years; and accordingly, under the Inam Act, every resumption made by Bajee Rao, upon whatever pretence (see the case of Venayekrao Bulwunt Gholemady, Appendix, p. 109) is confirmed by ourselves.

It is not difficult to see that, as by our means these resumptions in the first instance became possible, the guilt of the spoliation which attaches to them is our own. The reasons upon which Bajee Rao would confiscate an Inamdar's holding can hardly be named in print; and assuredly they cannot serve as a pretext for Christian men to follow up his career of spoliation. The Poona duftur contains the records of these resumptions, although the true grounds on which they were made are of course suppressed, and some fictitious crime against the State is the commonly alleged pretence for the confiscation. Fortified with the duftur, which is in the exclusive possession of the Inam Commission, sunuds of any date whatever are swept away, if any trace can be found in the records that the land-tax was either temporarily or permanently levied upon them. No access to that duftur is allowed to the Inamdar, *not even a copy of the entries alleged to invalidate his sunud;*—and all this under the Act which, we are told, was passed to confirm Inams, and not to resume them!

A careful perusal of Schedule B of the Act (see Appendix, p. 83.) will show that no term of possession

short of one hundred years gives a prescriptive right, in the absence of a sunud or title-deed. Clause 3 enacts that an Inam holding, to acquire validity upon a ground recognised in all civilized countries, must have been in the undisturbed possession of the grantee, or his lineal male descendants, since 1757, the introduction of the British Government taking place in 1817. The present year is 1859. We venture to say that such an enactment was never before passed, in any civilized country, in modern times. The term extends to nearly four generations after the term of life in India, and is wholly unprecedented. But we must take up the rules of this Schedule *seriatim*, and note their effect:—

"1. All lands held under specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily, or in perpetuity exempt, wholly or partially, from the payment of revenue, are to be so continued, according to the purport of such declaration.

"Provision 1st.—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly."

We have seen that one of Mr. Elphinstone's rules enumerated the officers possessing authority to create an Inam grant. Upon the appearance of the draft of this Act, the classes affected by it very naturally prayed that the authorities alluded to in this initial rule might be distinctly specified in the Act itself. Desultory inquiries had been going on for thirty years into the titles by which the properties were held, and their validity had in numerous instances been acknowledged by men (collectors) whom we are bound to regard as in every respect competent to confirm them.

But a sharper process was now about to take place, and the old ground would therefore have to be traversed over again. Accordingly, under this enactment, the Inam Commission is enabled to upset any appeal of

the Inamdar to a former decision in his favour, by simply affirming that the collector had no power to make it. Let the reader remark the notable answer returned to the memorial of the Inamdars on this point:—

"7. You say that you fear inquiry from the 1st rule of schedule B, as it stands in the draft to which you allude, as you apprehend that the competency of the fully authorised officers who formerly gave guarantees for the continuance of Inams, &c., may be now unreasonably questioned. This the Government will not permit to be done. The Government must know by its own records which of its officers had authority to make or continue grants, and by reserving to itself the duty of declaring this, in case of a question arising, will prevent the possibility of any of its officers from raising the groundless objections which you say you fear. Moreover, if any officer who may have been incompetent has declared a grant continuable, his incompetency will not cause the resumption of the Inam, &c., if it can be reasonably continued on any other grounds as being an old grant, &c. It might seem needless to assure you of this, but that you seem to fear unreasonably the contrary."—*Letter of Mr. Goldsmid*, 14th November, 1851.

The Inamdar was to trust implicitly to Governmental honesty of purpose; and is gravely assured, in reply to his prayer that "the competent authorities" might be enumerated, that in setting aside previous decisions in his favour, he should, as an indulgence, have his title *fairly* weighed a second time over. The impropriety and the cruelty of these repeated investigations are too manifest to be dwelt upon; the result being the severest mental torture, and the unsettling of all property in the country. What assurance has the Inamdar who is lucky enough to pass the ordeal of to-day, that one yet more severe is not awaiting him in the future; that the decision of the present Commissioner may not be upset by the commission of 1869. We believe that a parallel to such proceedings could be found in no civilized country. We come now to the *second* rule of Schedule B, and it is one of the most important of the Act:—

"2. Any land held under a sunud declaring it to be hereditary, shall be so continued according to the terms of the sunud.

"Provision 1st.—Provided that the grant was either made, or specifically recognised by authority competent to alienate Government revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by provision 1st, rule 1.

"Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

"Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognised, by a competent authority."

It will be seen at once that the same reserve is maintained on the subject of "the competent authority" to grant the sunud originally, as exists in the previous rule upon the authority competent to confirm it. Mr. Elphinstone had accepted the responsibility of enumerating the officers competent to create those grants; while his successors reserve to themselves the power of declaring the sunud invalid *ab initio*, and deprive the Inamdar of any appeal to law by making the decision wholly within their own discretion. The prayer of the Inamdars that the authorities referred to might be enumerated in the Act was summarily rejected.

But let us suppose that the sunud was granted by unimpeachable authority—authority which the Commissioner cannot gainsay—its perils are not yet terminated. It will be observed that the sunud must expressly declare the *hereditary* nature of the grants. Now the art of conveyancing is in its rudest shape in this country, and sunuds, far from possessing the uniformity of English title-deeds, are often fatally defective according to our law. They may, or they may not, declare the grant to be hereditary. The words "perpetual" and "in perpetuity" are frequently the only terms employed as to the duration of the grant, and sometimes we believe the sunud merely uses the term "Inam." But it is well known throughout Maharashtra that an Inam grant, as has been shown in Chapter II., is always hereditary and perpetual; and to insist upon the presence of a certain form of words in the sunud, is one of those devices which have earned for the Act its notoriety. An *Inam* sunud, whether it expressly use the word "hereditary" or not, constitutes the land granted real private property.

The next rule (3) is as follows:—

"All lands uninterruptedly held as wholly or partially exempt from

assessment for a period of sixty years before the introduction of the British Government, and then in the authorised possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only."

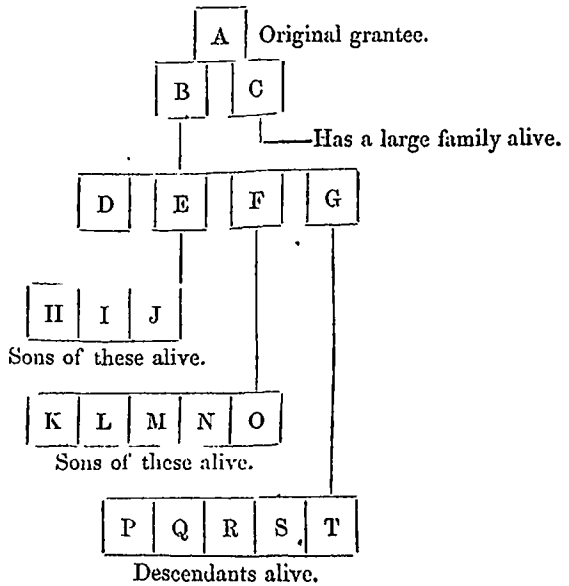
At first sight it would seem that an undisturbed enjoyment of sixty years would confer upon the Inamdar an absolute title to his holding; but preposterous as is the exaction of such a term in a country so unsettled as the Mahratta kingdom, there are considerations lying below the surface of the clause which make it a cruel exhibition of legislative injustice. In the first place, the introduction of the British Government took place forty-two years ago: so that the term of possession is not 60, but 102 years; while, as the Inam Commissioners' labours (if permitted to continue) will not terminate for the next thirty years, the time will by and by be extended to 130 years!

Again, it will be observed that the lands must have been held *uninterruptedly* throughout that period, so that any violent temporary resumption of them, at any period of the Mahratta empire, from 1757 to 1817, invalidates them wholly. The fact that the major part of the Inams was exposed at one time or other to the caprices or necessities of the Mahratta rulers and amildars, does not seem to have been recognized by the framers of the very broad and well-considered Act of 1852. One would suppose that the circumstance of their restoration after such resumption would tell powerfully in favour of a title, which even Mahratta despots did not venture to annul; but the Act is inexorable, and the possession must have been *uninterrupted* to confer that title. It is difficult to notice the provisions of the Act dispassionately; and the apologists which it has found in Messrs. Sykes and Mangles can only escape without censure upon the ground that they have been led astray by the misrepresentations of the Inam Commissioners.

But there is more beneath the surface of this clause. If the reader will again look at it, he will see that it excludes from the succession all the descendants of the

original grantee but one, viz., the incumbent at the time of our acquisition of the country; and, moreover, it confirms the Inam to him, and his male heirs, only upon the supposition that he is *a grandson in male descent* of the original grantee.

The effect of such legislation is manifest. A genealogical tree will perhaps best illustrate the matter :—



The founder of this family is A, to whom, one hundred years ago, the reigning Peishwa granted an estate in Inam. The sunud declares the estate to be granted to him, his heirs, and successors for ever. The estate is entered in the Poona duftur at A's death in the name of his eldest son B; the family of the other son C, however, sharing according to Hindoo law and custom in its benefits. Upon the death of B, in like manner, the land becomes entered in the duftur as the property of D, in whose possession we found it at the conquest. It was not D himself only, however, who was the inheritor; his uncle C and family, and his brothers E, F, and G, being all supported therefrom. In process of time, D dies, and leaves no son. Now, according to

Hindoo law and custom, the widow should take into her lap (*i. e.* adopt) one of the surviving brother's children, that he may perform certain ceremonies of filial piety, necessary, according to Hindoo belief, to save his adoptive father from Nuruku, the Hindoo place of torment, and to secure his happiness in the future state.* It is almost needless to point out that, under the English law of primogeniture, upon the death of D without children, E would succeed by natural right. Under Hindoo law, his son would be adopted by the widow, or, failing that, the son of another brother, and so on. It is almost incredible, but it is the fact, that the Commission steps in upon D's death, and declares the property an escheat, under the clause we are reviewing, on the ground that he has left no sons; although there may be a score of other descendants of A, to whom and to whose heirs and successors the original grant was made.

The rule is surely a convincing proof that intellect without conscience will occasionally find expression in law;—even in the compassionate and well-intentioned Act that Captain Cowper *et hoc genus* declare to have been passed to confirm Inam properties, and not to resume them; while the fact that men in the position of Messrs. Sykes and Mangles announce from their place in Parliament that the public are misinformed as to the true nature of the Act, merely evidences the facility with which the House of Commons may sometimes be imposed upon.

The last remark upon this clause which it is necessary to make is its exclusion of all descendants through the female line. With strange inconsistency, the very men who tell us that succession to Inam lands through a daughter's son was never permitted under the Peishwa, thought it necessary to obtain a legislative enactment to invalidate such succession *under the Peishwa's rule.* For it will be observed that the

* These are the funeral rites called Kreea; the monthly mourning or Sootuk, and the annual presentations, of certain oblations of rice, &c., called Sraddh Sopindadun.

clause declares that the incumbent at the time of our acquisition of the territories must have been a grandson *in male descent.* How could he have been a possessor through female descent, if such descent were not permitted under the Peishwa? A possession for 100 years, thus hampered and restricted, can hardly be expected to be proved by any landholder; and the requirement of such proof is a refusal of recognition to prescriptive tenures of every description. The next rule that comes under review is the following:—

"4. All land, uninterruptedly held as wholly or partially exempt from assessment for a period of forty years before the introduction of the British Government, and then in the authorised possession of a son, or male heir of the body of a son of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son."

The only remark that need be made upon this clause is to point out the fact that under it the Inam Commission is ousting thousands of proprietors, on the ground that an uninterrupted enjoyment of eighty years is not long enough to give a prescriptive title. The forbearance paraded in the last clause of the rule is a mere mockery. The British occupation took place in 1817. Two generations will soon have elapsed since then; while the clause forbids the resumption of any Inam of eighty years' date until the death of the last surviving son of the incumbent of 1817!

THE ONUS PROBANDI.

We now come to a provision under this clause upon the strength of which the upholders and apologists of the Inam Act charge us with misrepresenting its true nature. The provision is as follows:—

"Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of rules 3 and 4 respectively, his prescriptive right shall be admitted."

This is mere pretence. "His prescriptive right shall be admitted." Prescriptive right to what?—to hold the Inam, gentle reader, until his death. The sentence of beggary is to fall upon his children, not upon himself; and this is what, under the Inam Act, is called conferring a prescriptive right upon the Inamdar! A title by prescription cannot be acquired under the Act, unless all the requirements of the 3rd rule are met; and if, conscious of his inability to meet them, the Inamdar falls back into the position of a defendant, he finds the Commissioner is armed at all points with a *duftur*, by which anything on earth could be proved against the title.

What is meant by "evidence forthcoming to disprove a claimant's title" is the Poona *duftur*, which would not be admitted as evidence in any court of law. The use which has been made of these Poona records, after unlimited opportunities for falsifying them and tampering with them, is not at all creditable to our name; and the best proof of the worthlessness of the above provision is the fact that the Commissioner manages to disprove two-thirds of the holdings as he proceeds.

But we must enter upon a full investigation of the real nature and operation of the clause, as it constitutes the support chiefly relied upon by the apologists of the Commission. Let us see, first, what Captain Cowper makes of this clause:—

"25. But under Act XI. of 1852, the claimant need not adduce a particle of proof of any description. He need not indeed even make any assertion. Whether he chooses to say that all he knows is that his family have enjoyed the exemption for centuries, or to say that he knows nothing whatever about the matter, or to say nothing at all, the result is one and the same. His title is formally confirmed, unless Government have records of the former rule proving the exemption not to have been allowed.

"26. Surely it is difficult to conceive any more complete and absolute relinquishment of the undoubted right of the State to demand from those claiming exemption proof of their title to enjoy it, than that described in the last paragraph."—*Minute*, 22nd October, 1838.

"His title is formally confirmed, unless Government have records of the former rule, proving the exemption not to have been allowed." It is difficult to lay bare

the dissimulation which underlies this statement. The Inamdar may, if he choose, fall back from the position of plaintiff, under which he is contemplated in every rule, and avail himself of this provision; upon the strength of which it is affirmed that the *onus probandi* is borne by the Government. Let us suppose, then, the Inamdar taking up this position, and declaring, untruthfully in nine cases out of ten, that he knows nothing whatever as to the origin of his title, but believes it to date back from the age of Vikramaditya. The solemn farce is now entered upon of disproving the title. If we inquire who is to determine upon the so-called evidence, we find it is the Commissioner himself; and if we inquire into the nature of the evidence, we are told that it consists in the records of the Mahratta duftur. Observe first, then, the constitution of the court. There is the plaintiff (the Inam Commissioner) and the defendant (the Inamdar). The plaintiff holds the duftur in his hand, and is about to prove from it a Governmental title to resume the land. But where is the judge, who is to determine what is evidence in the case, and what is not? There is no judge. The Inamdar has thought it his safest course to plead that he can show no title, and leave the Commissioner to do his worst. How the case will go with him, however, is very certain, for it will be observed that all the Commissioner has to do is to establish from the revenue records any one of the following points:—

1. A sale of the property at any time during the last hundred years;
2. Or a transfer;
3. Or a descent through a female;
4. Or through a collateral;
5. Or through an adoption;
6. Or a temporary levy of the land-tax at any time;
7. Or that the Inam was granted subsequently to 1757.

It matters nothing that the sale, transfer, succession, or grant, was manifestly made with the sanction of the Peishwa's Government, under which sales and transfers were incessant; nor that the Inam, although seized half-a-dozen times, was as uniformly restored. The Act is inexorable, and by its ingenious provisions, drawn up by

the Commissioners themselves, half a score of flaws have been constituted in every title that could be pleaded. There is nothing left for the Commissioner but the trouble of a reference to the duftur, in which the mere record of a change of name in the proprietorship, instead of being taken as evidence of an authorized and valid transfer, is held to vitiate the present incumbent's title, and a sentence of resumption is forthwith passed. The reader will observe, by attending closely to the rules we have examined, that no Inam is respected which does not fulfil the following conditions :—

1. It must have been held *uninterruptedly* for more than one hundred years.
2. There must be no link wanting *in the lineal male succession* to it.

The Act thus deliberately sets aside every grant, sale, transfer, adoption, and succession (otherwise than lineal male) made under the last sixty years of the Peishwa's rule, and when by so doing it has already pronounced an escheat against six-tenths of these properties, it professes to cast upon the Commission the *onus probandi* of the investigation; the Commissioner being previously armed with the records of that former Government, not to give validity to the acts of that Government, but to avail himself of them as pretexts for now declaring the property escheat! Shall we hear any more of the *onus probandi*? Shall we not dismiss it as a gross plausibility, in character with the other giant iniquities of the Act?

The measure, we say, declares every grant, contract, and succession of the last sixty years of the Mahratta rule, invalid; and then places the public record of those grants, contracts, and successions, in the hands of the Inam Commissioners, to destroy the titles affected thereby. Instead of taking those records as unimpeachable evidence that such contracts and successions were altogether valid, the Inam Act resorts thereto only to destroy them; and, with this unheard-of weapon in its hand, challenges the Inamdar to place himself, if he pleases, on the defensive! The insidious meaning which underlies the surface of the Act is perfectly surprising; nor can we believe that the Government is really aware of its true

nature. The conscience of the Commission is not well at ease. Committed to the conclusion that Inams were originally obtained by fraud, the Commissioners hold all things justifiable to resume them; and when their designs are brought to light, they endeavour to assume the aspect of innocence, and complain that they are a calumniated body.

Again, as though the Act itself were not sufficiently crushing, let the reader mark Captain Cowper's own version of the principle which guides him in his investigations:—

"110. There are a few words of explanation I wish to offer in regard to Inam cases, in which it is not a report which I have to submit for the consideration and orders of Government, but a decision which I am called upon to pass, subject to eventual appeal to them. Here (*i.e.* in Inam cases) should doubt arise, and that doubt be of a nature not properly referable for the interpretation of Government (Act XI. of 1852 provides that in certain cases Government may be thus referred to previous to decision), I should, as a general rule, decide on the doubtful point against the claimant, leaving it to the Inam Commissioner and to the Government to reverse my decision in appeal, and enabling them to do so, if requisite, by recording the doubtful point most fully in all its bearings. Such a course seems to me necessary, because I deem it of very great importance that Government should not be obliged to reverse the decisions of its own officers, when passed in favour of claimants."—*Selections*, No. XXXI., page 69.

It is notorious that the appeal to Government is a farce. Indeed, Captain Cowper, unless report be untrue, is constantly resorted to, to draw up the final decision of Government, in cases which the Commission itself has adjudicated in the first instance. It is difficult to make the reader fully understand the nature of these proceedings throughout. They are conducted with closed doors and absolute secrecy. No Inam trial has ever yet been published. No access is allowed to the duftur at any time, or to any parties. The Commissioner's word as to their contents is the final one. He is himself plaintiff, judge, jury, and responsible to none; and all that the Inamdar knows is, that he is swindled out of his estate.

We have here summarized briefly all that is important in the rules, provisions, and operations of this Act; and when we say that it is simply a measure of wholesale confiscation, we are describing it in correct

and moderate language. The Inam Commissioner, upon arrival in a district, issues a general invitation (that is what the Act calls it, gentle reader) to all the Inamdars and landed proprietors of the collectorate, to register in his office an account of the titles under which they hold their property, for his inspection. If the invitation is not regarded, a notice is issued to the recusant party, requiring him "personally, or by his agent, to show his title, and to produce all the evidence forthcoming to establish it." If the notice is unattended to, the land is at once attached. In the teeth of these unanswerable facts, the upholders of the measure tell us, upon the strength of the provision we have noticed, that the *onus probandi* is not thrown upon the proprietor. Captain Cowper dare not venture, before the Indian public, the sophistries and subterfuges which impose upon parties at a distance, unacquainted with the true nature of the procedure. We have already reviewed the wretched pretence on which it is declared that the action of the Commissioners is misrepresented, and that the *onus* of disproof is really taken upon themselves; and what is it? That where there is no written title producible by the proprietor, and his claim rests upon the simple statement that the land has been in the possession of his family for only ninety-nine years, the Inam Commissioner must disprove his statement, or allow him to continue in possession *until his death!* while if he succeed in proving any flaw in the direct male descent, there is an end of the title, though it were five hundred years old. The Poona duftur, instead of being taken as conclusive proof of the legality and validity of the grants, sales, transfers, adoptions, or collateral successions of the Peishwa's times, is simply the engine made use of to sweep the properties away wholesale.

Chapter VI.

CONCLUSION.

The effort which has been made, by the local Government to conceal the true nature of the Commission, and its proceedings, from the action of Parliamentary opinion, arises from the fact of its reputation being so deeply implicated in the matter. The merit of having suppressed the Rebellion with vigour is, however, but a poor atonement for the statesmanship which produced it; and it will ever remain a blot upon Lord Elphinstone's administration that it followed blindfold the policy it inherited from Lord Falkland's. It is deeply to be regretted that when exposure overtook the Commission, Lord Elphinstone had not the moral courage to face the truth, and plead openly the impossibility of any Government, constituted like the Indian, exercising an efficient check upon the action of its subordinates. The Government of India, as at present constituted, is at the mercy of its minute writing subordinates, and it is a valid excuse for the errors of the administration that it has no means of emancipating itself from their thraldom. The impossibility of three or four men constituting the Council, critically examining the ten thousand manuscript folios of special pleading, upon all kinds of subjects, passing under their review yearly, is too manifest to need illustration. The records of the Government show plainly that it has been, from the first, wholly at the mercy of the Inam Commissioners' recommendations, and there never will be a safe system of administration in the country, until the action of a competent and independent body is brought to bear upon the pleadings placed before Government by its subordinates. It is not an easy matter to reply to a plausible minute

in manuscript two hundred paragraphs long, written by a man thoroughly acquainted with his subject, however deep may be the bias under which he writes, and dangerous the conclusions at which he arrives. The more hopeless is it that any adequate reply will be made to such a document in Council, if its conclusions fall in with the temper of the times. This state of matters describes with exactitude the history of the Inam Commission, and the writer of this pamphlet is probably the only man in the Bombay Presidency who, from long study of its recorded minutes and proceedings, has an adequate sense of the profound misrepresentations upon which its proceedings have been based. Circumstances preclude his visiting England, or he would willingly have gone before the Colonization Committee of the House of Commons for a couple of hours upon the subject, or have cross-examined the apologists of this machinery of confiscation. If that Committee should be led away eventually by the plausibilities of Captain Cowper's minute, which the writer has endeavoured to lay bare, or accept the assurances of Colonel Sykes on the one hand, or Messrs. Willoughby and Mangles on the other—assurances wholly at variance with fact, and excusable only on the supposition that those gentlemen have been imposed upon by the means that have hoodwinked the local Government,—the opportunity, afforded by her Majesty's accession to the Empire, of regaining the confidence of the people, will be irreparably lost. It is difficult to speak in terms of fitting severity of the attempt which is being made to mislead the Parliament upon this important subject, lest the reputations of those gentlemen who stand committed to the resumption policy should suffer shipwreck. As an instance of the recklessness with which the Bombay Government is bolstering at all hazards the statements of the Commissioners, let the reader notice that Captain Cowper's minute roundly ascribes the outbreak in the Southern Mahratta country (at Kolapore) to "purely religious causes." That statement received the unhesitating *imprimatur* of Lord Elphinstone and of his Council, and has been widely circulated in England to discredit

Mr. Warden's evidence, as to the state of matters in the Southern Mahratta country, before the Committee of the last Sessions. By an accident, a confession of the truth slipped out from Mr. Lockett the other day at Belgaum, upon the occasion of the release of the Jumkhandee Chieftain. The fact is that the Colonization Committee may not trust a statement put forward by the local Government on this subject, nor by its apologists, who, as Mr. Mangles, have for many years been identified with that policy which produced the Rebellion. There has been from the first an unworthy determination shown by Lord Elphinstone to stifle inquiry, if possible, upon the subject, and the archives of the Secretariate were instantly closed against the writer of this pamphlet when it was found that he was grappling in earnest therewith. As an instance of the length to which this resolution has been carried, he has had to address some four or five letters to the Chief Secretary for permission to inspect the published revenue selections of the East India House, and is in doubt still whether he will be allowed access to them, or not. Should the Committee of the House remain in doubt as to what its deliverance upon this subject should be, it is of the last importance that it should procure evidence, from India, of men wholly unconnected with the Commission, and whose reputations are in no way mixed up therewith.

The writer has had the fullest assurances of approval from high quarters of his exposure of the Commission, but he forbears to inflict quotations upon his readers.

The conscience of Western India knows the true state of matters too well to be imposed upon, and it is impossible, we trust, that the Commission should escape a Parliamentary condemnation.

The Commission should be wholly abolished. An investigation into titles, now that forty-two years have passed away since we acquired these territories, is condemned at once by common sense and common equity. The belief that any very large proportion of Inam holdings has been fraudulently acquired, is wholly gratuitous, as the labours of the Commission itself show.

But whether such holdings be few or numerous, there is nothing left to us but a compromise of our claims upon them. It is of course monstrous that the Inamdar should be living under the protection of laws and institutions towards which he contributes nothing. What then? Is confiscation the remedy the world usually applies to such a state of matters, or taxation? The Inamdar knows well what a succession duty is, and the imposition of such a tax, however severe, would be hailed by the whole class as the Governmental pledge at last that their properties and families were secure. The extinction of the class, which must take place under the action of the Commission within one hundred years, will be nothing short of a national calamity. The tendency of our rule to reduce all classes to a dead level of pauperism is truly sickening to contemplate; and a wise Government would take every step in its power to avert, and would deem it madness to court, such an issue. Whatever lands may have been unwarrantably usurped under the Peishwa's rule, or at the period of our accession, none have been so usurped since that period. Lay down, then, the principle that possession for the last thirty years gives a title. That pretence, "the ruling sanction," is a disgrace to our name, and should be consigned to oblivion as a thing of the past. A sharp succession duty is the true solution of the question. We need not hesitate as to the amount, but it would not be wise to attempt to graduate the tax according to circumstances. Take the good and bad alike upon one footing, and confirm all, on the simple ground that present possessors, at all events, had no complicity in the misdeeds of the past. Levy one duty upon all, and make no distinction between succession by an adopted or natural son. Hindoo law knows none. Show, then, that you are going to fulfil her Majesty's gracious promise to respect "the ancient rights and customs of the people." A differential tax upon successions by adoption would be weak statesmanship in our circumstances. We want to win back the confidence of the people, and there is no matter which has offended them so sorely as this "adoption" question.

Concede the right frankly and wholly, and you will cut up a thousand embarrassments by the roots. Escheat is a doctrine unknown to Hindoo law, and is a word that should be banished from our political vocabulary. A succession duty will produce at once more than this Inam Commission, which, added to its oppressive nature, is a thorough financial failure; while a frank recognition of the laws and property of the people will enable us to withdraw every European soldier now in India, south of the Nerbudda. On the other hand, maintain this Commission, and you must follow it up with an army, and will hold the lands you have unjustly confiscated no longer than the people are helpless to wrest them from you.

If Parliament still remains in doubt upon this subject, the most important step it can take will be to order a return of all the cases decided by the Commission against the Inamdars; to declare the proceedings and *records* of the Commission open to the inspection of the public; and to direct a return of the exact grounds on which the property has been advised to be resumed in every instance, when the true character of the Commission and its proceedings will be laid bare.

APPENDICES.

APPENDIX A.

ACT No. XI. OF 1852.

Passed by the Governor-General of India in Council on the 13th February, 1852.

An Act for the Adjudication of Titles to certain Inams claiming to be wholly or partially Rent-free, in the Presidency of Bombay.

Whereas in the territories of the Deccan, Khandeish, and Southern Mahratta Country, and in other districts more recently annexed to the Bombay Presidency, claims against Government on account of Inams and other estates wholly or partially exempt from payment of land revenue are excepted from the cognisance of the ordinary civil courts, and incapable of being justly disposed of under the rules for the determination of titles, and the rules of procedure contained in chapters ix. and x. of Regulation XVII. of 1827 of the Bombay Code and their supplements; and whereas it is desirable that the said claims should be tried and determined without further delay: it is declared and enacted as follows:—

I. The rules in chapters ix. and x. of Regulation XVII. of 1827, and clause 1 of Regulation VI. of 1833 of Bombay Code, do not apply to any of the districts of the Bombay Presidency which were not brought under the general regulations of Government by Regulation XXVIII. of 1827, of the Bombay Code; and no order hitherto passed regarding the continuance or resumption of lands in any of the said districts held or claimed from Government as wholly or partially free of assessment shall be liable to be questioned in any court of law, on the grounds of any interpretation or construction of the law which may be inconsistent with the declaration made and the rules prescribed by this enactment.

II. The Governor of Bombay in Council may appoint in any zilla or other division of the territories subject to the Presidency of Bombay, which were not brought under the general regulations of Government by the said Regulation XXVIII. of 1827, an Inam Commissioner with

so many assistants, and such subordinate establishment as may be necessary for the purposes hereinafter mentioned.

III. The duties of each Inam Commissioner and his assistants shall be discharged according to the rules in Schedule A, annexed to this Act.

IV. In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the rules in Schedule B, annexed to this Act.

V. Each Inam Commissioner and his assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by law vested in the ordinary civil courts; and so far as concerns the penalties for not giving evidence, for false testimony, for resistance of process, contempts, and other like matters connected with cases under cognisance by any one of the said officers, his office shall be held to be a court of civil jurisdiction of the same authority as the superior civil court of the zilla or district in which his office from time to time shall be established. Provided that all complaints against, or appeals from, the proceedings of the Inam Commissioner or any of his assistants, in exercise of the authority conferred on them respectively by this section, shall be made under the second rule of Schedule A, annexed to this Act, and shall not be cognisable by any other authority, or in any other manner than as therein specified.

VI. Bribery, extortion, and generally all acts of abuse, or misapplication of authority, or other misconduct, committed by any officer belonging to the establishment of the Inam Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences, with fine and ordinary imprisonment without labour for a period not exceeding five years; and the receipt of a present, directly or indirectly, by any such officer, from any person against whom, or in whose behalf he may be officially employed, shall be considered extortion. And no penalty or punishment adjudicated under this clause shall preclude any other civil prosecution to which the offender may be liable.

VII. No decision or order of the Inam Commissioner, or of any of his assistants, or of the Governor in Council, under the provisions of this enactment, so long as the same shall be in force under such provisions, shall be questioned or avoided in any court of law; and no Commissioner, or Assistant Commissioner, or other person acting under the provisions of this Act, shall be liable to be sued in any civil court for any act *bonâ fide* done, or ordered to be done by him in pursuance of the said provisions.

Schedule A.

Rules for defining the Duties of each Inam Commissioner and his Assistants.

1. The duty of the Inam Commissioner and his assistants shall be to investigate, in the manner prescribed by this enactment, the titles of

persons holding or claiming against Government the possession or enjoyment of Inams or Jagheers, or any interest therein, or claiming exemption from the payment of land revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment.

2. All orders of the Assistant-Commissioners shall be appealable to the Inam Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings; and the orders and proceedings of the Inam Commissioner shall be in like manner appealable to and subject to modification, reversal, or annulment by the Governor of Bombay in Council, whose orders shall in every case be final.

3. The Inam Commissioner or his assistants shall receive, from the persons holding or claiming to hold lands or any interest therein exempt from the payment of revenue, statements explaining the nature of the title by which the lands and interest are so held, and shall take and accord the evidence offered in support of such statements.

4. These statements may be received, either directly by the officers of the Inam Commission, or through the medium of the revenue authority of the talooka in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a district who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him personally, or by his agent, to show his title. The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands, or interest held, or claimed to be held, exempt as aforesaid, to attend either personally or by an authorised agent, at a specified place and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. The notice shall further explain that a failure to comply with its terms will render the land or interest to which it relates liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt, as aforesaid; or, if his place of residence be not known, upon the person acting for him; or, in default of such, upon the person in charge of the land or interest.

7. If such persons cannot be found, a notice shall be posted in the office of the native revenue officer of the district, and in the chowree, or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest; and on failure of the appearance of a claimant the land or interest shall be liable to attachment.

8. The attachment provided for by Rules 5 and 7 shall be enforced

by the collector or chief revenue authority of the district in which the land to which it relates is situated, at the written requisition of the Inam Commissioner or his assistant, which shall be a sufficient warrant to the collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment.

9. As soon as possible after the receipt of the statements in each district, and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State records, and by any other evidence procurable, whether in favour of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption, or full or partial assessment of the lands.

10. In cases where the notices provided for in Sections 5 and 7 fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant-Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

11. An attachment enforced under Rule 8 shall be removed by the collector or chief revenue authority by whom it was made, on receipt of a communication from the Inam Commissioner or his assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

12. Certified copies of decisions made according to the provisions of Rule 9 shall be delivered as soon as possible after each decision is passed to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of Rule 10, shall be sent to the mamlutdar, or other revenue manager of the Talooka in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

13. Decisions affecting any lands, or any interests therein, passed under this enactment, shall be carried into execution by the collector or chief revenue authority of the district in which the lands to which they relate are situated, at the requisition of the Inam Commissioner or his assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

14. In all cases where a person may be desirous of appealing against any decision of the Inam Commissioner or his assistants, he shall apply by a petition, addressed to the authority by whom, according to Rule 2, his appeal is cognisable, which petition shall be presented to such authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal; and no appeal which is not so made shall be admitted without proof of the existence of a just and necessary cause for its not having been pre-

ferred in due time; and it is hereby provided, that no decree passed by the Inam Commissioner or any of his assistants shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

SCHEDULE B.

Rules for the adjudication of Titles to Estates claimed as Inam, or exempt from Payment of Land Revenue.

1. All lands held under specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of revenue, are to be so continued according to the purport of such declaration.

Regarding Inams already declared permanent by competent authority since the introduction of the present Government.

Provision 1st.—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant-Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant-Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

2. Any land held under a sunud declaring it to be hereditary, shall be so continued according to the terms of the sunud.

Regarding claims to personal Inams not yet adjudicated under the present Government.

Provision 1st.—Provided that the grant was either made or specifically recognised by authority competent to alienate Government revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land or the rules of public decency.

Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognised by a competent authority.

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorised possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

4. All lands uninterruptedly held as wholly or partially exempt from

assessment for a period of forty years before the introduction of the British Government, and then in the authorised possession of a son, or male heir of the body of a son of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

Provision 1st.—The authorised possession contemplated by Rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or paramount power. The mere entry of the holding, as continued in the genuine accounts of the district officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of "uninterrupted" and "authorised," so far as regards the purposes of this rule; provided only that there are no entries in the Collectorate accounts, which show that the holding of such lands, exempt as aforesaid, must have been unauthorized by the Government or paramount power.

Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of Rules 3 and 4 respectively, his prescriptive right shall be admitted.

Provision 3rd.—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or paramount authority of each district as regards its Inams. In the territories ceded by or conquered from the Peishwa, therefore, whether Khalsat Mahals or Surinjams, &c., held exclusive of Inams, &c., the introduction of the British Government will date from the close of that of the Peishwa. But in case of the lapse of an independent principality, or of a jagheer more ancient than the Peishwa's government, and over the Inams of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the districts may have come into the hands of the Company; and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any district came into their hands, such question shall be referred to and determined by Government in the manner prescribed by Provision 1st, Rule 1.

6. Land held as wholly exempt from payment of revenue, or on partial assessment, the possession of which is not continuable under the preceding rules, is to be resumed on the demise of the incumbent.

Provision 1st.—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Provision 2nd.—When land is evidently held by fraud recently committed (as when an Inam which was resumed under the late Government has been reoccupied under the present Government without authority, or as when a pretended Inam is found to have originated since the introduction of this Government with the connivance

of district or village officers), it shall be at once resumed, not being continuable under this or any of the preceding rules.

Regarding claims to Inams apparently permanent by the nature of the objects for which they are held, and not merely personal.

7. All lands held for the support of mosques, temples, or similar institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Provisions 1st, 2nd, and 3rd.—The same as the corresponding Provisions of Rule 2 of this Schedule, in those cases in which title-deeds, or other records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to show whether or not an Inam coming under the provisions of this rule was granted, or even specifically recognised by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the Inam, as continued in genuine accounts of the district officers (even in those not passed by the Government of the time being), is to be considered sufficiently "uninterrupted" to give an Inam the benefit of this provision, if there be no entries in the Government accounts which show that it must have been unauthorised by them.

Provision 5th.—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in Provision 4th, as establishing full prescriptive title in such Inams, still, if so far as they do go they are not opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the Inam shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

Provision 6th.—The peculiar advantages of this rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the rules for personal claims.

Provision 7th.—When claims of the denomination coming under this rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to Rule 6.

8. All lands unauthorisedly held by an official tenure, which it is evident, from local usage, was meant to be hereditary, and has been so considered heretofore, even though there be no sunuds declaring it to be so. For instance: Inams which form the authorised emoluments of any hereditary office, as of kazees, village joshees, &c., and are not merely personal, are to be continued permanently.

Provisions 1st, 2nd, and 3rd.—The same as the corresponding Provisions of Rule 2 of this Schedule, in those cases in which title-deeds or other records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to show whether or not an Inam, coming under the provisions of this rule, was granted,

or even specifically recognised by competent authority, still, if it has been undisputedly enjoyed as an official and not merely personal holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

Provision 5th.—The provisions of this rule are not in any way to apply to emoluments continued for service performed to the State, as the service wutuns of disaees, surdesnees, nargowdas, deshpandeys, patells, koolkurnees, mhars, tulwars, whose claims are to be disposed of according to the rules which are or may be established for the regulation of such holdings.

Provision 6th.—It is to be understood that mere length of enjoyment of land as Inam by an official person is not of itself sufficient to entitle a claim to be brought under this rule.

Provision 7th.—If a holding claimed under this rule be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding rules of this Schedule which may be applicable to his case.

Regarding Provision for the Widows of the last Incumbents of resumed Holdings.

9. On the resumption of any lands under the rules of this Schedule, a moiety or other portion may be continued to the widows of the last incumbents during their lives, in cases of proved poverty and destitution.

Provision 1st.—In the case of a holding which is recognisable as an hereditary personal Inam, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his Inam will of necessity descend, is by right his sole heir, and during her life the Inam cannot be regarded as having lapsed to Government; it should therefore, in such a case, be continued undiminished during the widow's life.

Regarding the exception of certain Tenures from the application of these Rules.

10. These rules shall not be necessarily applicable to jagheers, surinjams, or other tenures for service to Government, or tenures of a political nature, the titles and continuance of which shall be determined as heretofore, under such rules as Government may find it necessary to issue from time to time.

Regarding the modification and interpretation of these Rules.

11. Any of these rules may be relaxed in favour of claimants under instructions from the Governor of Bombay in Council, in whom shall also be vested the power of interpreting the precise meaning of any of the rules respecting which a question may arise.

Appendix B.

MEMORIAL OF THE CHIEF OF NURGOOND.

To the Honourable the Court of Directors of the East India Company.

The respectful Memorial of Bhasker Rao Dadajee, Chief of Nurgoond, in Southern Maharastra.

Sheweth,—That your memorialist, the chief and holder of the Suwusthan of Nurgoond, having no child now living, is desirous of

adopting a son to succeed to his estate, in accordance with the laws and usages of Hindoos.

That your memorialist, not being a mere Jahageerdar, but holding by the higher and more absolute title of Suwusthan, conceives and submits that his estate is an absolute one of inheritance, and that his lawful heir is legally entitled to succeed him.

That the law and custom of adoption being formally established amongst the Hindoos, a son by adoption is as completely entitled to inherit as a son by birth.

Still your memorialist, being desirous of acting in accord with the British Government, and being anxious that there should be no question or dispute as to the right of any son adopted by him to succeed at his (your memorialist's) death, has requested, and begs now to urge upon your Honourable Court, to grant their sanction to such adoption.

To prove that your memorialist is entitled to adopt, and is morally entitled to the sanction of Government, he will show that Nurgoond is not a mere Jahageer, but is of that higher estate known as a Suwusthan. That Suwusthans are absolute estates of inheritance, and descend as of right to any lawful heirs, and therefore, in the absence of sons by birth to sons by adoption; and lastly, that your memorialist has so demeaned himself towards the British Government, and the tenants and inhabitants of his district, that independently of his legal rights, he has fair and strong claims on the consideration of Government to grant such sanction to the adoption in his case, as is granted in all other cases where the misconduct of the Jahageerdar has not afforded grounds for refusing to allow the inheritance to be thus perpetuated.

Your Honourable Court is aware that this estate has been in your memorialist's family nearly two hundred years. In 1671, Nurgoond and Ramdroog were granted to your memorialist's ancestor, and after that part of the country had been conquered by the King of Beejapoor, this district was reconquered by your memorialist's great-great-grandfather, Dadajee Rao Bullall, by his own exertions and at his own risk; and upon his reporting this achievement to the Peishwa, that authority, in the year 1712, again vested these districts of Nurgoond and Ramdroog on him as an absolute Suwusthan, free of any payment or service, and therefore, on a very different tenure from that of Jahageer.

But again your memorialist's ancestors were driven from their possessions, and in 1791, Venkutrao Bhaskur, your memorialist's grandfather, after a long contest, was forced to yield up Nurgoond to Tippoo Sultan, when the fort, with all the dwelling-houses, and in them the family papers, were burnt by the hostile forces, and Venkutrao himself was taken prisoner.

Tippoo Sultan was, however, soon driven back from that part of the country by the Peishwa's forces, when Venkutrao was rescued, and the Punt Preedhun, on behalf of his Government, again vested the Suwusthan of Nurgoond and Ramdroog in your memorialist's grandfather.

In all the sunuds and in all the papers that have been found in the records of the Peishwa's Government, this estate has invariably and perpetually been termed a Suwusthan, and never a Jahageer, and at no

time has it been disputed that this is indeed a Suwusthan. If it had been of Jahageer tenure, there would have been either payments or services due to Government; but from Nurgoond nothing of the sort has ever been rendered or claimed.

In 1761 and 1791, Shreemunt Mahadewrao Sahib Peishwa gave a statement of the villages and their revenues to your memorialist's ancestor, and in all of them the estate is designated as Suwusthan; and in 1778, Nana Furnavees remonstrated against Hyder Ally raising the tribute on the Mahratta possessions, including Nurgoond, which had passed into his possession, declaring that "Suwusthan, on the transfer of districts, were liable to no additional payment, and that the right of Suwusthanes who had been guilty of no treason against the State should be respected."

That which Nana Furnavees then urged upon the justice of Hyder Ally, I am now submitting to the more liberal and enlightened consideration of your Honourable Court, and with full trust that it will not be in vain.

In 1810, Shreemunt Bajee Rao in several documents has mentioned this estate as Suwusthan. It is, therefore, needless further to urge the peculiar and high nature of the estate repeatedly, and after so many interruptions, vested in your memorialist's family.

But it has been said that Suwusthans are not distinguished from Jahageers to the extent your memorialist claims, and that the sanction of Government is requisite to the validity of adoption by the holder of such estates in the same way as in the case of Jahageers.

This I submit is an assertion wholly unwarranted, and directly at variance with the truth.

In the year 1829, a full inquiry into this tenure was instituted under the directions of the Governor of Bombay by Mr. Nesbitt, Political Agent in the Southern Mahratta Country, in connection with a claim made by the widow of Nurnen Rao, chief of Ramdroog, and your memorialist believes that he was fully satisfied of your memorialist's right, and reported most favourably to Government on the subject; and to his report it is hoped that Government will refer in considering this memorial.

As the Suwusthans of Nurgoond and Ramdroog rest on not only similar but actually the same basis, as they are different parts of the same Suwusthan now held by different branches of the same family, the views that were held with reference to Ramdroog must be equally true of and applicable to your memorialist's present estate of Nurgoond.

But if there could be any question of the absolute and fully hereditary tenure of this Suwusthan on general considerations, the treaty entered into between the Honourable the East India Company and the father of your memorialist, Dadajee Rao Venkatesh, in the year 1820, must put an end to all doubt.

It will be seen by a perusal of it, that the British Government, when their authority was, as in 1820, in a very unsettled state in the territory of the Mahratta, and it was their interest and their policy to conciliate all classes, especially those in positions of power and influence, most unequivocally acknowledged my right to this Suwusthan, to hold it

to "myself and my heirs for ever, from generation to generation, and the authority for the succession should be given and renewed at each succession without any nuzerana being demanded."

It is well known that the Mahratta's Government were not in the habit of objecting to any adoption, but only made the grant of such consent an opportunity of seeking a nuzerana; but by the British authorities in 1820, even this is entirely given up, and the strongest expressions are used indicative of the understanding that my father had the fullest and most unlimited right of private property over this Suwusthan.

The question of right resolves itself, then, into the simple question whether the Government is justified in resuming property which one of its Hindoo subjects holds by an indefeasible estate of inheritance, guaranteed by the strongest phrases for securing endless perpetuity, because the heir claiming is an adopted and not a naturally-begotten son.

This question in the present case relates exclusively to private property, and cannot be judged of on those principles of public policy which may, perhaps, with some propriety be introduced in determining the succession to Rajahs, Nawabs, and others in positions of high political power.

Your memorialist is the private owner of a private estate, derived, it is true, from Government, as all private property probably was at first, but freely and absolutely granted or confirmed as an estate of inheritance for ever. Your memorialist upon this seeks to exercise the ordinary right, which every Hindoo in a private station both claims and exercises, of adopting (in default of sons by birth) a son to perform his funeral ceremonies and to inherit his property. Can your Honourable Court step in and say their right shall not be exercised, this adoption shall not take place, because if there be no adoption, the East India Company will be entitled to the estate?

But supposing that your memorialist had not the right of adopting without the previous sanction of Government, he submits that Government is morally bound to give that sanction, unless he has so conducted himself as to justify the paramount power putting an end to his possession, and, as it were, forfeiting the property, if not of himself while living, of his family when he shall be no more.

All former Governments have given their sanction, as in matter of course, except under very unusual circumstances, only keeping up the custom of applying for and granting their permission as a convenient mode of obtaining nuzzurs; they never, in the most disorderly times or under the most rapacious sovereigns or ministers made use of their power of refusing to sanction adoption for the purpose of putting an end to the succession, and so securing the property for themselves.

Even, therefore, if your memorialist had shown himself a person little fitted to have the charge of such districts, and negligent of the duties which attach to the proprietors of land, he submits that it would nevertheless be unjust to insist on a forfeiture of the property by thus preventing an adoption. This penalty would be out of all proportion to the offence; and if all property be forfeited which is once held by a negligent or unworthy owner, how soon would all the land of my country pass out of the hands of private persons. It should be con-

sidered that as one man is unsuitable for his position and unequal to his duties, his successor may show all the requisite qualities and be the very reverse of his predecessor.

But I submit further, that your memorialist has done his duty as a landholder. He has dug wells, planted trees, established schools; he has satisfied his people, whose contentment under his auspices should be sufficient to satisfy your Honourable Court; and that this is the case any impartial inquiry in the district would show: but your memorialist cannot now prove it further than by referring to the correspondence that has heretofore taken place relative to your memorialist's desire to adopt, in which the improved condition of his districts and his good management are admitted.* It has been urged and argued that any perpetuation of this estate would only be for the benefit of your memorialist's creditors. Were it so, there is no just reason why they should be defrauded of the securities they looked to for repayment of loans. But it is not so. Your memorialist has, by economy and liberal as well as careful management, paid off the heavy debts he inherited from his predecessors, and has within a very small sum freed himself and his estates from all liabilities. There is not more than the sum of ——— rupees now due from him, the interest of which one ——— of his annual income will keep down, and which his surplus income will altogether discharge in the course of a very few years.

Your memorialist, therefore, while asserting most deferentially his independent and legal right to adopt a son without any reference to the Government, as a Hindoo possessing private hereditary property, begs most respectfully to submit in conclusion:

That the estate of Nurgoond has been from the first a Suwusthan absolutely hereditary, and thus for nearly 200 years has remained in the family (notwithstanding several interruptions by hostile power), having many times passed from father to son by adoption.

That by the treaty made with your memorialist's ancestor in 1820, the estate is secured to his family and all legal heirs for ever, and that by Hindoo law and custom an adopted son is a legal heir to as full an extent as a naturally-begotten son; and that as the practice of adoption was so fully and familiarly known when the treaty was drawn up, that if it had been intended to exclude heirs by adoption, words would have been used having such effect and indicative of such an intention; thirdly, that if the formal sanction of Government to the adoption be requisite, your memorialist is entitled to it, not having so conducted himself as to be justly liable to the forfeiture of his estate, and the consequent deprivation of his family; but on the other hand, having exerted himself to improve the condition of the estate itself and of the people residing upon it and depending upon him.

Your memorialist, therefore, respectfully requests that in order to settle all doubts and to assure and comfort both himself and his family and friends as well as his dependants, your Honourable Court will direct that your memorialist may have the sanction of the local Government to effect a fit and suitable adoption.

APPENDIX C.

To the Members of the Managing Committee of the Bombay Association.

GENTLEMEN,—We, Inamdars, Vatandars, and other inhabitants of Poona and other places, beg to represent as follows :—

We suffer from the oppressive acts of Government and its officers, in consequence of which we are apprehensive that our just rights will be violated in future in the same way as they have recently been. We, therefore, considered it necessary justly to complain regarding them, and to submit all the particulars in detail. We have embodied in this petition the reasons on which our complaints are based, and the proofs which we are able to advance in support of the latter, and which have been herewith annexed. We request you to do us the favour to transmit copies of this petition of our grievances, together with the proofs, to the House of Commons, composed of the representatives of the people assembled in the Parliament of Great Britain and Ireland, to the Court of Directors, and, if you think proper, to the Right Honourable the Governor in Council. And we request the Bombay Association to solicit Government to take our petition into consideration, and to give us such justice as we are entitled to, in order that our grievances might be redressed, and we might not in future suffer from similar hardships. With this view we request you to move Government to adopt such measures as may be deemed necessary. By so doing Government and your Association will confer a great obligation on us, for which we will always feel grateful.

1. We trust our representations regarding the inquiry instituted by the Government of India concerning the Inamdars, will be taken into consideration and carefully attended to.

2. When the territory belonging to the Peishwa was annexed by the Company's Government to its dominions, the Honourable Mr. Elphinstone published a proclamation on the 11th February, 1818, specifying the terms and conditions on which Government had resolved that inamdars and others should be allowed to hold their lands and enjoy their rights. It contains the undermentioned guarantee :—

"The Company's rule has been established, but there will be no interference with the watans, inams, varsashans held by any persons, and with devasthan disbursements, charities and castes, and religions professed by any persons. What is just will be allowed to continue."

On the promulgation of this document we were fully convinced that Inams, &c., will never be seized. Subsequent to the publication of this notification the Governor in Council passed the undermentioned rules regarding Inams in March, 1819.

"All Inams granted under the sunud of the Peishwa's Government, though not actually got in possession, shall be confirmed without any interference, provided they were not resumed by that Government.

"All Inams granted prior to 1803 by those officers who had the Mootalukee seal, and by Soobedars and other superior officers, shall be confirmed.

"Inams resumed without the authority of the Peishwa since 1803 shall be restored."

Inams were held and enjoyed for many years without interruption after those rules were prescribed. In the year of Christ 1827, the East India Company's Government passed a Code of Regulations for this Presidency. The Regulation XVIII. (chap. ix. and x. of this Code) relates to lands held by Inamdars and Vatandars, and are calculated to afford substantial justice and benefit to the Government as well as its subjects.

3. In the years 1842-43. Government having first organized the Inam Commission in the Carnatic Province, two officers, viz., one European and one native, were appointed to investigate the titles of the Inamdars. They, having examined the Inamdars and the duftar of the Peishwa, made reports to Government. The native officer was subsequently removed by Government, probably on the ground that the interests of Government would be better served by such removal. The Inam Commission was therefore composed of only one individual, a European officer of Government. The said Commission continued for some time to make reports and decide cases, subject to the confirmation by the Governor in Council at Bombay. Government never reversed the decision of that Commission. The reason was this. The Governor in Council was pressed with the general business which ordinarily came before them, and there were no gentlemen of knowledge and experience in such matters. Therefore, though inclined to consider the Inam Commissioners' reports as unjust, yet the secretary did not like to take upon himself the responsibility of reversing the decision of the said Commission, and as business must be disposed of in some way or other, he was obliged to confirm the said reports, and to issue orders in conformity to those documents. Thus, out of a multitude of decisions, not one single decision was reversed.

4. Mr. Pringle, on being appointed Chief Secretary to the Bombay Government in 1847-48, and having a good knowledge of judicial matters, recommended that the name Inam Committee should be discontinued, and the designation of Inam Commission should be substituted; that the said Inam Commission should be empowered to examine the papers belonging to the Inamdars and the Peishwa's duftars, to give such decisions to the Inamdars as he might deem proper; that if any Inamdar felt dissatisfied with the Commissioners' decision, he should be allowed to appeal to the Revenue Commissioner against such decision; and that if he felt dissatisfied with that functionary's decision, he might appeal to the Governor in Council. The recommendation was adopted and carried into effect. The gentleman who was then appointed Chief Inam Commissioner was very slow in the discharge of his duties, and his decision in the case of an Inamdar of the village of Modeghoy, in the Pachchapore Talook of the Zillah of Belgaum, having been reversed, he discontinued the investigation of Inam cases on the alleged ground that he was engaged in examining certain papers and documents, and prepared a draft Act, which he submitted to the Governor in Council. This led to the passing of Act XI. of 1852.

5. By this new Act, the rules in chaps. ix. and x. of Regulation XVII. of 1827, and clause 1 of Regulation VI. of 1833 of the Bombay Code,

were repealed. The differences between those rules and the rules embodied in the Act now in force are as follows :—

1. The fact that land enjoyed exemption from the payment of public revenue for twelve years antecedent to the date when the territory in which it is situated came into the possession of the British Government, shall be considered as a sufficient title to exemption. This rule has been set aside by the new Act.

2. Land which has not enjoyed such exemption for twelve years will not be exempted from payment of public revenue, but if a claim be filed in that behalf, in a court of justice, the decision of that tribunal shall be enforced. This rule has been cancelled.

3. Land granted for the support of temples and religious or other establishments, or in consideration of service to be performed, shall be liable to be assessed if the service be not performed, provided no such assessment shall be made, until the person enjoying the exemption has received notice requiring him to perform the service, and he has failed so to do within the period specified in the grant. The Act contains a provision of a different nature on this subject.

4. Mafi lands, or lands exempt from assessment, granted in consideration of friendship, or as religious endowments, shall be allowed to be continued to the holders of them if they have been enjoyed for sixty years uninterruptedly. This rule has been annulled.

5. People suffering from the acts of the collector shall be allowed to appeal against such acts, by petition to the Sudder Dewance Adawlut. This rule has been repealed.

6. Under these circumstances it will be seen that the tenor of those newly formed rules is to deprive the people of their Inams.

Matters regarding the Inam Commission are now decided by the Assistant Inam Commissioner; his decision being subject to the confirmation of the Inam Commissioner. That the Assistant Inam Commissioner is in all matters guided by the Inam Commissioner is proved from the fact that all business relating to Inams is transacted by his order. The Assistant Inam Commissioner writes only a separate decision. They have one and the same duftar. Government is fully aware of these circumstances. The Inam Commissioner cannot, even, if he feels inclined, reverse the decision of his subordinate officer when appealed to by the Inamdars, being already bound to uphold it by his previous sanction to it. When an appeal is made to the Governor in Council, the members of the Council, finding that two decisions are already recorded against it, do not take the case into their mature consideration and deliberation, and dismiss it without a careful examination. They confirm the same decision, and in no single instance have they altered the decree.

7. The Inam Commissioner has seized all the documents relative to the Inams from the Inamdars, and after the lapse of from three to eight years he is now engaged in deciding the cases. The way in which the cases are decided is as follows: the claimant is called before the Commissioner, and is asked to produce proofs against papers of a certain description found in the Peishwa's duftar prejudicial to his interest. The whole of the investigation is so shrouded in secrecy, that one is left in complete ignorance about the papers in the Peishwa's duftar, which are opposed

to his interests. Thus we suffer without any knowledge of the arguments urged against us.

8. Justice is rightly administered when the examination is conducted before an open court, when both the parties, the claimant or the person authorised by him and the person appointed by the Government to conduct the case, meet face to face, to answer questions, to adduce proofs, to support their arguments, to solve any objections raised or doubts entertained.

But everything is here conducted under the veil of secrecy; no one is allowed to enter the precincts of the Cutchery without permission, except on business; none are allowed to be present at the trial, and the whole matter is decided according to the whim and caprice of the officers. From this unfair system of dealing out justice, it seems that the object of the Inam Commissioner is to fill the coffers of Government at the expense of the wretchedness and poverty of the ryot.

9. On the 9th September, 1851, we petitioned the Right Honourable the Governor in Council to let us have the liberty of referring to the Peishwa's duftars for proofs of charges alleged against us, or to be furnished with such proofs when asked; and in reply, Mr. Goldsmid, in the 17th para. of his letter, dated 14th November, 1851, stated that the Inam Commissioners, at the time when the matter is and shall have been investigated, do and shall produce the documents containing the proofs, and that therefore no order shall be issued to allow us to have a direct reference to these documents, or to furnish us with copies. But the Inam Commissioner produces such papers only as contained the orders of the Peishwa to attach the villages, suppressing, either intentionally or by negligence, those which show that the attachment was subsequently withdrawn and the Inams restored. For instance, in the case of Venayekrow Balwant Ghotewady Inamdar, to whom the village of Ghotewad was granted as an Inam, by the Peishwa's Government, the Inam Commissioner having found in the Peishwa's duftar proofs of the village having been attached by the same Government in the year A. D. 1811, and of its being not restored to the Inamdar till the end of the Peishwa (Mahratta) War, and after the death of Balwant Rao Appajee, the original grantee, declared the Inam to have lapsed to the State. But Balwuntrow died in the year A. D. 1807, and his son, Venayekrow Balwant, represented him and continued to hold the Inam till the year 1811 uninterruptedly, when after the lapse of seven years it was unjustly and without any shadow of a pretence attached.

It is notorious that his Highness the Peishwa Bajerow was a debauchee and profligate, and used to force gentlemen to prostitute their wives and other female relation towards whom he took any liking, for the gratification of his criminal desire, under pain of their losing any sort of emoluments they held under the Government. Sadashevrao and Trumbukjee Dangalia were the persons employed to execute his orders of revenge in case any one resisted. Mr. Venayekrow Balwant was his victim. Not having complied with Bajerow's vile wishes, his Inams were put under attachment. Under the circumstances just described, it is not right to consider the attachment a just one. However the Poonah duftars contain records in the handwriting of Bajerow, of having delivered over to the Inamdar 27,365 rupees, the aggregate

amount of the income accumulated during the attachment of the village. The payment is recorded on a kirdee on a gold-edged paper. This entry shows that the attachment was withdrawn and the Inam restored. But the Inam Commissioner did not condescend to examine this strong proof. From this, it will be plainly seen whether the object of the Inam Commissioner is to administer proper justice or to swell the happiness of Government at the cost of misery and wretchedness of the people. The Inam Commission entertains the services of military officers, who are as remarkable for their courage as notorious for their illiberal and despotic views. They are totally ignorant of the proper mode of dealing out justice. Their heart is bent in advancing the interests of Government, no matter whether the means employed are fair or foul. To intrust matters of such importance to those who are unable to comprehend the drift of native documents, who are neither trained nor have any experience in such matters, who have laid down for their guidance one broad rule, *i. e.* the "promotion of the interests of Government," and whose object is to insinuate themselves into Government favour, is to endangor the integrity of Government.

10. When persons with feelings such as these are appointed to sit as judges in matters relating to Inams, and all the circumstances of the trial are covered in an impenetrable veil of secrecy, the object of Government could not but be served, and their acts screened from public condemnation. Instead of the cumbrous and tedious process of examination as employed by these persons, and of the mock justice, the appointment of officers, and other expensive outlays; instead of all this, it would have been the least difficult, the least onerous, and least expensive, though somewhat dangerous, measure of Government, to have at once issued a proclamation to the effect that no Inams, annual incomes, military, personal, or religious allowances, shall be enjoyed in future.

But we are under the firmest conviction that the intention of Government is good, and its aim is zealously to secure the rights of the people, and administer right justice in endeavouring to increase their revenue. This, above all others, gives a strong hold on the affections of the people. We earnestly request Government to adopt the former law, which had preserved inviolate the rights of the people, and guarded the sacred principles of justice, and to repeal the new Act.

11. The officers of the Inam Commission, and the claimants or landholders, stand in the relation of plaintiffs and defendants. The former take the trouble only of searching papers, from the Peishwa's duftar, which are detrimental to the claimants' interests. These plaintiffs then appear in another capacity—that of judges. This is objectionable; since they cannot act as impartial judges of the case, but as interested persons: and this frustrates, in a great measure, the ends of justice. It is therefore incumbent on Government to appoint a separate person to conduct the trial; and one who is not interested in any one's favour. He should decide cases in the manner they are tried in the ordinary courts of justice. Having summoned the plaintiff and the defendant to the court, it should be his duty to examine the documents, to hear *pro* and *con* of the matter, to weigh the testimony on both sides, and lastly to give an impartial and right judgment.

Mr. Pringle, when secretary to Government, has communicated his intention in the 4th para. of his letter to Government, to appoint a person to whom appeals may be made against the decision of the Inam Commissioner. Many other English gentlemen entertain a similar unfavourable opinion of the doings of the Inam Commissioner. The Hon. the Governor in Council would not, we think, take the matter into consideration, nor interfere with his favourite, the Inam Commissioner. If this be true, it would be setting a bad example of policy, and opening a door to injustice, oppression, and crime.

12. Mr. Deesurshethjee Parsee, who was a Government pleader at the court of Bajerow, obtained an Inam of a district from the Peishwa Government. This he made over to his son-in-law, Mr. Pestonjee. It was afterwards attached, under the collector's orders. Mr. Pestonjee, having filed a suit in the Judges' Court, and appealed to the Sudder Adawlut, had the decision of the collector reversed; and took charge of the district in conformity with the decision. After this, the collector made an appeal to the Council, where the decision of the Sudder was confirmed. The decision of the case will be found by a reference to the published records of the Council. This circumstance will plainly show the inefficiency of such officers, and the advantages of a separate tribunal. Such a measure, if carried into practice, would not fail to knit the hearts of the people to their rulers by stronger bonds of amity and love. We trust that Government will take this proposal into their serious consideration.

13. Mr. Chintaman Row Saugkur Jahagerdar obtained from the Peishwa's Government a grant of country, in consideration of his services. When the Company's rule was established over the Peishwa's territory, Mr. Chintaman Row refused to serve the British Government. In consequence of this, Government determined to take from him the districts of Hor'ble and Thuddes from his grant. Deducting portions of land granted as Varshasuns, for the support of idol worship, and other religious purposes, the remaining extent of these districts affords a revenue adequate to compensate his lost services. By this arrangement, Government has tacitly consented to continue for ever the Inams of the people of these districts to their prosperity; for violation of their just rights would be contrary to every rule, and unjust with regard to the last settlement.

14. The Peishwa's Government wrested from his Highness the Rajah of Kolapoor's dominions the districts of Chikodee and Manodee in the year 1774. The revenue of these districts having been enjoyed for more than a year by the Peishwa, they were restored to his Highness. They were seized again, and for a second time restored. After many such changes, they were finally, in the year 1802, bestowed on Shrider Row Nabeelkar, Subluskar Nopankar, as a Suranjami; which he retained till the year 1814. Some menial clerks of the Peishwa, conceiving a design for swindling Shrider of one-fourth of the annual income of his Suranjam, got up a false document. This paper is wanting in all the essentials of a valid document. First, it is not acknowledged by any of the officers or functionaries of the Peishwa; for it does not bear the mark always affixed to such documents. Secondly, it is not drawn up from the accounts of 1814-15; since the Peishwa had no such paper in his pos-

session. Thirdly, that it is made out of the accounts of the year 1774 is evident; for the accounts in Shrider Row's possession for that year exactly correspond with the accounts in this spurious document. Notwithstanding this, the Inam Commissioner has seized the Inam, which was held from 1774 to 1815 by his Highness the Rajah of Kolapoor, and then by Nipankar, who had the Peishwa's motalkee seal. When once granted, the Peishwa has no right to it; much less the Hon. Company. After being convinced as to the merits of the case, and the falsity of the documents, Government must reverse the decision of the Inam Commissioner; and if they assert that the Inam Commissioner has acted under the impression of this document being genuine, we are ready to convince them by a reference to the Government duftars. Government has full authority to do what they please after a fair investigation of the matter. It being no aim of the Chief Government to do injustice, when the Inam Commissioner, to gain Government favour, represents matters differently from what they really are, it is the duty of Government to place no confidence in him. He should be warned to decide only in favour of what is right and just.

15. In the year 1815 his Highness the Rajah of Kolapoor held a conference with Mountstuart Elphinstone, and requested him to get the help of the British Government to compel the Peishwa to restore the district of Chikoodee and Manolee to his Highness, who was the rightful possessor of them. Lord Elphinstone having solicited in return his Highness to make over the districts of Malwan in the Rutnagherry Collectorate to the Honourable Company as a token of friendship, his Highness closed with his proposal, and shortly afterwards delivered the districts to the Company sirkar. Mr. Elphinstone also prevailed on the Peishwa to make over these districts of Chikodee and Mandolee to his Highness. When once they came under the authority of his Highness the Rajah of Kolapore, Government has no right to oust the possessions of the Inamdars. In the year 1828-29 the British Government, having imputed the charge of rebellion to his Highness, annexed these districts to their dominion. The Inam Commissioner has confiscated the Inams of the people of these districts even while the grantee or his heirs were in existence. Now, Government cannot fail to see on mature consideration the injustice and oppression on the part of the Inam Commissioner in declaring the Inams conferred by his Highness the Rajah of Kolapore, which Government is aware is not a dependency of the Peishwa, but an independent state, to have lapsed to Government, there being no agreement stipulated between the Rajah of Kolapore and the British Government, that the Inam should be discontinued in any case. There is no provision in any of the regulations against the continuance; while on the other hand there is every promise held out for continuance in the acts of the Honourable Company.

16. We, therefore, humbly entreat the Bombay Government to appoint a Commission, consisting of an Inam Commissioner and a representative of the people, maintained at the cost of Government, and vested with full powers to examine every case that comes before them for investigation. We trust that Government will accede to our proposal, since we demand justice not as a favour but as our right. We trust that this measure will in some respect defeat the intention of the Inam

Commissioner to pervert justice, and serve as a check in future to such misdecisions as we have endeavoured to show.

We understand that the intelligence communicated to the people by Mr. Secretary Hart, revealing the intention of Government that surdars, officers of Government, and other people who will voluntarily submit all papers relating to the last reign, will receive from Government a meed of praise, and those who will not submissively do this will incur the displeasure of Government, is not of a compulsory nature. We believe it was never the intention of Government that the Inam Commissioner should authorise his people to enter the houses of the ryot forcibly, and occasion destruction of furniture, breaking open the locks, to seize all documents relating to Inams and Vattans, Sunuds, copies of account papers relating to the government of districts by contract, in fact papers of every sort that may be in the possession of the officers of the villages, and carry them away without passing a receipt of these papers, or mentioning the number of duftars. The *employées* in Inam Commission are occasioning in addition to this much mental annoyance The taunts and insolence of these people of the Inam Commission, and the oppression and force they have exercised, we blush to mention. They have even gone so far as to enter the houses of people in their absence, force open the locks, and carry away the documents. These might be considered as fancy sketches, but no—they are bitter realities. We take the liberty to adduce in the following pages proofs in support of our assertions.

18. Krishnarao Nilkant had been to Baroda to get himself married. He had entrusted some of the keys of the room containing the bundle of his papers to his relative, Jeevanram Narayen, while he took with him the keys of such rooms as contained secret papers as should be inspected by no eye but his. Now, on the 1st of April, 1852, at about twelve o'clock in the noon, some karkoons (clerks) and sepoys sent by Captain Cowper, Assistant Inam Commissioner, forcibly entered the house, and breaking open the locks, carried away all the papers they could find in the house during the absence of the said muzandar. On the next day, 3rd April, 1852, Jeevanram Narayen handed a petition to the superintendent of Poonah, a copy of which is annexed, marked A in the Appendix. This having come to the knowledge of Captain Cowper he took measures to prevent these unauthorised and illegal proceedings from reaching the ears of Government, and to avoid public censure he wrote two letters, one marked B, of the 5th April, 1852, and the other marked C, of the 23rd April, 1852, to Mr. Jeevanram, expressing the approval of his conduct in voluntarily submitting the papers he wanted, and that Government shall be written to on the subject. He then conveyed to him the approbation of his conduct by Government in his letter marked P, to Jeevanram, dated the 10th of May, 1852.

19. Mr. Krishnarao Nilikant, while at Baroda, petitioned the Governor in Council, on the 1st of May, 1852, praying to be informed for what reasons, and on what grounds, the Inam Commissioner plundered him of all his documants, while he would have willingly forwarded to that officer, if he had asked him for those papers, and had kept a list of them, to which petition he received no answer. What the object of Govern-

ment may have been in not attending to this petition it is not easy to guess. This petition is marked E in the Appendix.

20. Some time afterwards Krishnarao came back from Baroda and asked Captain Cowper to return his documents. On this he was told that they had been returned to Jeevanram. Krishnarao then having urged that the documents should have been returned to him, and not to Jeevanram. Mr. Sukar, in a letter marked F, No. 1907, dated the 24th August, 1852, called for those papers from Jeevanram. A correspondence, marked G, was then carried on between Krishnarao and Mr. Sukar, as noted in the following manner, which ended in fabrication and invention of false stories and evasion of the contents of the letters.

Mr. Krishnarao's letter, dated the 6th September, and Mr. Sukar's reply, No. 3007, dated the 7th idem, marked H.

Mr. Krishnarao's reply thereto, marked I.

Mr. Krishnarao's letter, dated the 9th September, and a reply thereto from Mr. Sukar, No. 3036, dated the 9th idem, marked J.

Mr. Krishnarao's reply to the above, dated 11th idem, marked L.

Mr. Krishnarao's letters, dated 11th idem, marked M.

The documents had been delayed for a long time, and yet the important papers are withheld from him. On the perusal of the communication no one could fail to see the gross acts of disorder and tyranny of the Inam Commissioner.

21. After this communication Mr. Krishnarao wrote a letter, marked N, to Mr. Hart, the Inam Commissioner, asking him for his documents. In his reply, No. 862, to this letter, under date 18th January, 1852, Mr. Hart has purposely evaded to answer the request made to him for returning the papers, and with a view to intimidate and strike with fear the Inamdars, so as to restrain them from advancing their rightful claims, has disputed Mr. Krishnarao's title as a sirdar. Mr. Krishnarao then referred the whole matter to the consideration of the Governor in Council on the 24th of February, 1853, in the letter marked O, to which he has received no answer.

22. From this it appears that Government is accessory to all these acts of zoolam (tyranny) of the officers of the Inam Commission, since they have turned a deaf ear to all the representation of the grievances of their subjects.

23. The chief object of collecting papers relating to lands, Inams, Vatans, which were not in the Government duftars, from Inamdars, Vatandars, Vipoolkarmas, &c., was to place in the Government archives accumulated proofs of the title to each estate, for the disposal of all Inam claims, and arrange in a systematic manner the claims and titles of all parties to each possession, and form a proper estimate of such property. Now, although the papers have for so many years been collected, yet they have been scarcely looked into and examined and disposed of, and not even an inventory has yet been prepared. Several of the cases have been disposed of, and are now being disposed in the course of every day, without any inquiry into and examination of such documents being instituted, to the great injury of the people.

24. It appears that the real object of forcibly taking possession of all sorts of papers relating to the grants held by individuals is, that when matters regarding the Inam estates come to be adjudicated before the

Inam Commissioners, they might dispose of the suits in any manner they like without the fear of inciting any opposition from the claimants or disputants. For no document is left to ground any complaint upon, and consequently for proving the wrongfullness of the Commissioner's decisions. In the settlement of a case of the Inam tenders of the villages of Nimble, Atnee, Talooka, the Inam Commissioner at Belgaum asked Captain Cowper to see the nature of the papers brought from the house of Sadashiv Mankeshwar, relating to the case in question. Captain Cowper wrote in reply that no inventory was yet made of the documents, and that they were not yet filed. Notwithstanding this the case was disposed of.

25. Balcrustna Narayen Carkoon, Clerk and Manager of Pandurung Madhowrow, in accordance to the order of his master, not to allow any document to pass out of his compound, and to furnish copies of such documents in which he was interested, and give such papers as would not be useful to him but serve Government, after making an inventory of such papers, made known his master's intention in reply to Captain Cowper's letter, and requested that his master's wishes be complied with. The investigation was then conducted at the house of Fudkey, and some papers were taken. Fearing afterwards this would be a bad precedent, and would be destructive of the aim of securing the original documents without leaving any copies with the possessors of such estates, Captain Cowper fined Balcrustna Narayen in the sum of 200 rupees, on the charge of having obstructed the course of justice.

26. This mode of procedure on the part of the Inam Commissioner is unprecedented, and opposed to good policy and justice. Some time afterwards the Inam Commissioner set on fire heaps of old records. About twenty karkoons and some sepoys were doing this work of destruction for three days. It cannot be said that with these papers none of the documents favorable to the interests of Inamdars, &c., were destroyed. The Peishwa's records contained many documents relating to the attachment of alienated villages and their subsequent restoration, and it cannot be said with confidence that papers of the latter description were not consigned to the flames.

This is a very improper charge. Balcrustna then made an appeal to Government, stating this case in detail, to which no reply was made. A copy of the appeal is annexed. This proceeding shows nothing else but that people might never hereafter ask for lists of any sort of papers called for by Government, but quietly submit them under the pain of being fined. This surely is a glaring instance of zoolam (tyranny) of the officers of the Inam Commissioner.

27. Now it is given out that some of the Yurdies written by the late Bajerao and his karkoons have been missed and are not forthcoming. They appear to have been burnt.

28. The judicial regulations of 1827 have been so formed as to allow in cases when the rights of the people could be upheld without being detrimental to the interests of Government, the authority of Hindoo Shastras and Mahomedan laws to prevail, and orders issued to enjoin such observance. But where it was found by acting on dictates of the Hindoo Shastras would be opposed to the interest of Government, the

authority of the Hindoo Shastras is relaxed or never consulted. The following is an instance:—

29. It is enjoined by Danishwars and other lawgivers of the Hindoos, that a man having no male issue may adopt a son, who may inherit all his estates. This is set at defiance now. It depends now on Government pleasure whether to allow anybody to adopt a son or not. This must not be so; every one must be at liberty to adopt a son if he likes. If a person gives to the Government officers concerned due notice of such adoption, and if the Government officer keeps a list and makes the proper entries in it, there is no chance of any fraud being committed. This procedure shall be both in accordance to the Hindoo Shastres and the good policy of Government.

30. Ampoorau baee Athghari having no son, asked Government to allow her to adopt one. Mr. Chaplin, the then Inam Commissioner, having inquired into the matter, wrote in June, 1825, to the collector of Poonah that the Governor in Council sanctioned the adoption, and in the Deccan many such adoptions have taken place, and Inam proprietory continued to such adopted sons. But the Inam Commissioner has now ruled that no adopted son shall inherit any public grant.

31. On the 9th September, 1851, a petition was forwarded to the Governor in Council by the people of Deccan, to be allowed to adopt sons who should be privileged to hold the Inam property. In reply, dated the 14th November, 1851, it is stated in the 14th para. that the Inam act contains no clause to that effect, and that Government have nowhere expressed their view either one way or the other, and that therefore the appeal against the Inam Committee cannot be admitted. It is not in accordance with morality and justice to attach at present the grants of the sons who were duly adopted according to rites and observances of the Hindoo Shastras, and in conformity with Government resolution of the 6th of June, 1825. We beg to annex an extract of the resolution of the 16th December, 1828, passed by the Governor in Council, which sanctions the system of adoption as reported by Mr. Chaplain on an authenticated stamp paper, in Marathi, which is on the record, from which it will be seen that the present system of attaching grants held by adoption is quite opposed to former decision.

32. We respectfully submit that the present Government of Bombay countenances every scheme of their enhancement without paying any attention or deference to the local customs, regulations, and to oral promises or to written engagements. We cite an instance of this.

In the year 1851, Government, at the representation of the Political Agent and the Revenue Commissioner of the Southern division and the Collector of Poonah, had been pleased to allow the widow of Gungather Row Madhow Chundra Chooday to adopt a son in accordance to the rights and observances of the Hindoo Shastras, who should be privileged to enjoy all the Inam estates and possessions. The name of the adopted was subsequently enrolled in the list of the nobility and gentry (Badalokes). After this performance of adoption was completed and the boy was reckoned by the public community as a lawful adopted son, and enjoyed possession for nearly two years, Government on the 9th September, 1853, issued an order for invalidating his title and ousting his possession, on the ground that the right of possession should

45675

have come to the wife of the deceased during her life only. This measure is extremely unjust. The history of no nation affords a parallel instance to the one mentioned, where a son once adopted with the sanction of Government has been removed at the mere pleasure of that Government and without any colour of reason. The law of no country encourages such a procedure. We therefore request the Court of Directors and the Supreme Government to form an estimate of the hardships we suffer from the insecurity of our rights, and thereby the loss of good opinion and confidence of the subject by the instability of the decision of their rulers. A copy of the above order is herewith annexed, to show an instance of the acts of injustice committed in this presidency.

33. In the year 1819 it was enacted that all lands resumed since the year 1803 without the orders of the Peishwa Government shall be restored. The enactment was set aside by the Inam Commissioner in following transaction, Mr. Chaplain, the Inam Commissioner, after having fully satisfied himself by a reference to the Peishwa duftar that the district of Hurrollee was free from the attachment of the Peishwa Government (while it was attached by Pant Shachunt), restored the Inam from attachment in conformity to the above enactment. But the present Inam Commissioner has decided on the seizure of this district, and denies all power of restoration to Chaplain, the Inam Commissioner. We feel ourselves in an awkward position to make our way through these contending judgments. Upon the acquisition of these territories by the British Government, and the country settled, the Honourable Mountstuart Elphinstone and Sir Thomas Munro and Mr. Chaplain prescribed rules for the settlement of the Inam claims. The present Inam Commissioner in the disposal of many claims has questioned their authority and their judgments. To alter rules which are of a fixed and solid nature is laying a foundation of a loose and black system of policy. Of all the crafts of the State this is the basest.

34. The Committee's Act contains an article to the effect that all Inams seized by the Peishwa Government shall be resumed. But it was the usage of the Peishwa to deposit the amount of the annual incomes of the attached districts into a separate treasury and enter the amounts into a separate account-book, so that no difficulty may arise when it pleased the Peishwa to return the amount of the accumulated revenue to the Inamdars and free the Inams. If the amount was credited in the revenue accounts all further claim to Inam are debarred. It was the practice of the Peishwa to restore the Inam, and several instances are on record to prove this. Mr. Trembukjee Chintaman Sirkango had a vattan in the Khandeish Collectorate, which was placed under sequestration and subsequently retained. In examination of all documents, therefore, the Inam Commissioner must strictly and accurately determine whether the Inams under dispute have been finally restored or not before the Peishwa war, and should attach those Inams only whose sums have been entered into the Peishwa's revenue volumes. We beg to submit that during the reign of the Peishwa Inams were seized by persons who conducted the government of villages by contract for the payment due to them from the Inamdars, and that the Inam Commissioner has made this in some cases the ground of attachment.

35. The village of Chencholee in the district of Bhemthude, under the Poonah Collectorate has been granted as a perpetual Inam by the Peishwa Government to Attmaram Bawa, of the Ramdasse sect, for the celebration of religious festivities and rejoicings, and for the maintenance of religious worship in the temple. The sunud of this endowment contains a provision that the grant is to continue to the descendants, disciples of Atmaram Bawa Balukrain. The disciple of Atmaram Bawa ascended the seat of the devote according to the observance and rights of the spiritual guide. The district is now sequestrated on the flimsy ground that Balukram was not a descendant of the Bawa. Now this is in open violation of the sunud, which contained an express statement that all his disciples are entitled to the grant; and, to crown injustice, even his legal descendants are not permitted to enjoy the grants that are made perpetual by the Peishwa. Mr. Chaplin, after instituting an inquiry into the religious and local customs of the Hindoos, has published a book, on a reference to which Government will not fail to see the injustice of this resumption.

36. In the district of Ranay Bhindoor, in the Dharwad collectorate, and the district of Cashapoor, in the Belgaum collectorate, lands have been bestowed on Poojaries, or religious worshippers, for the maintenance of the expenses of the temples, hermitage, and mosques. These grants have been allowed to be held from generation to generation by the provision contained in the 2nd article, 7th clause, of the 11th Act of Committee's regulation, passed in the year 1852, though no mention is made of its continuance in the sunud. But these lands are now limited to the period of the life of the Poojaries, notwithstanding the authorised and incontrovertible sanction of its continuance in the Committee's Code and the practice of their tenure from generation to generation in the Peishwa's reign. Such are the decisions of the Inam Commissioner. It is interest only, as it were, that holds the reins of his mind. His sole object being, as has been said before, to swell his importance in the eyes of Government and win their esteem.

37. A question will naturally occur to Government, that if the people do really suffer under these grievances, why do they not appeal against such acts of injustice? The answer to this is obvious. The great mass of the people are poor. They are unable to defray the expenses of travelling to the distance of nearly two hundred miles to lay the petition of their grievances before the Commissioner in person, not to meet the heavy charges of the attorneys. Besides, most of them are unlettered and unacquainted with the proceedings of the Court, which disables them from carrying the case themselves. If another person takes up the case, we are given to understand that he is debarred on the ground that no complaint will be heard but from the lips of the complainant. The people at present are reduced to the state of abject poverty, and yet the creatures of Government are harping over their estates. Quite reverse was the practices of the former rulers, who with liberal hands showered the blessing of wealth on the poor. We do not see how the expenses of Devasthan could be maintained in future. In all the changes of management of State, history affords no instance wherein the rulers have stopped the charitable and religious allowances of the people.

38. Inam is a Persian word which means a grant. By conferring a grant on another, the granting power parts with his right in the property of the Inam till the death of the grantee and his descendants; though the grantee or his descendants might have transferred the grant to any individual whatsoever, or conferred for the maintenance of any religious or secular office. It was never the low and narrow-minded policy of Hindoo and Mahommedan rajahs to covet what they once bestowed. Thousands of examples might be adduced to show this. Government might have met with several instances in the management of Inam affairs in their other territories. The chief essence of a grant is its permanency. But Acts are now promulgated, limiting the terms of the Inams, and restraining the enjoyment of the Inams by imposing a condition that unless an authorized and uninterrupted enjoyment of forty to sixty years in the Peishwa's time can be proved, it is not sufficient to declare the holding a permanent one. These and like restrictions, strongly bear out our surmise, that the intention of Government is to ruin the subject, and reduce him to abject poverty.

39. Rowjee Bin, Morojee Ratna Josee Shirolay received a grant of the district of Pinglapoor, in the Poona collectorate, in perpetuity, for the maintenance of his family, from the Peishwa, for the cheerful recollection of the services rendered to the State by his brother, Shilojee Shiwlay, and six or seven others, and his wife and other female relatives having lived with and served the Peishwa family. On the 19th February, 1846, the political division of the southern division passed a resolution, that the Inams of those who died on the field of battle shall be allowed to be inherited as a perpetuity by their descendants, both by male and female line. On the authority of this rule, the political agent made the grant of the district of a permanent nature, which resolution was confirmed by the Governor in Council, on the 12th August, 1849. Notwithstanding this unimpeachable decision of the Governor in Council, the Inam Commissioner has reversed it on no substantial reasons, and limited it during the lifetime of the grantee. We therefore here take the liberty to annex a copy of the resolution of the political agent and the minutes of the Governor in Council. We beg also to submit a copy of the decision of the Inam Commissioner, in which he has attempted to explain the meaning of the sunud differently from what is its true meaning and signification, for the investigations of Government. Even a child of eight years will not mistake the true contents of the sunud.

40. On the 9th September, 1851, we, Inamdars, Jahagheerdars, Vattandars, and merchants, requested the Bombay Government to transmit the petition of our grievances to the Supreme Government and the Court of Directors, suggesting several reforms in the New Act under consideration, for the guidance of the Inam Commission, then first established in the Poona collectorate for the investigation of Inams. In answer to this, we received a very unsatisfactory and imperfect reply, under date the 14th November, 1851, in the fourteenth paragraph of which communication it is mentioned, that after our petition being translated into English, will be duly forwarded, with a reply thereto from the Bombay Government, to the Supreme Government

and the Court of Directors. To this communication we have not yet been favoured with a reply, and we are doubtful whether our voice has been heard there. Among the acts of the Bombay Government, in the 1st paragraph it is held out that the Inams in the Poonah collectorate are for the most part valid, and few stand the risk of being alienated. Reverse of this has been the case.

We have been necessitated to draw the memorial of our grievances from the culpable defiance of the Inam Commissioner to the rules and decisions of law and the principles of reason and justice, and to bring malpractices and the acts of injustice practised in the Presidency to the notice of Government.

CRUSTNARAY NARAYEN VIHER.

No. 1.

MEMO.—On the 1st April, 1852, at twelve o'clock A.M., karkoons and sepoys from Captain Cowper and the Mamlutdar of Havali entered my house, and having searched every corner of it, carried away about 144 budgets of documents. The names of the persons are as follows:—

From Captain Cowper.	*From the Mamlutdar.*
1 Balajee Pank Karkoon.	1 Karkoon, name not known.
2 Sepoys, names not known.	1 Bhowanoo Waleskar Patawala.
1 Kanada sepoy, name not known	

My son Krishnarao Nalkant Muzambar was at that time at Baroda, and his rooms were locked up. Some of the keys he had taken with him, while others were left with me, which on being asked for I produced them. The other locked-up rooms they opened forcibly, and carried away from all of them one and all budgets. These budgets among other papers contained the sunuds of our Inams and Suranjams, of all of which we were thus deprived.

JEEVANRAM NARAYEN, *Unzamdar.*

(Copy of the above memo. was forwarded to the sepoy under the Fouzdar, Chyatra Shud, 13th Friday Shak, 1774.)

No. 2.

To Anna Saheb Mujamdar.

MEMO.—Captain Cowper presents compliments, and begs to state that you had the goodness to forward speedily all old documents in your possession, in conformity with Government orders conveyed to you through this establishment, which shall be duly reported to Government, and their thanks returned to you.

He is given to understand that some sepoys belonging to the City Police of Poonah called on you, and pretending to have come from the Inam Commissioner began to inquire as to Government business. If this be a fact he requests you will have the goodness to forward a detailed account of it, and begs to intimate that proper measures will be taken to prevent its recurrence.

T. A. COWPER, *Captain,*
Assistant Inam Commissioner.

Dated the 5th April, 1852.

No. 3.

To Jeevanram Annashbee.

Sir,—In acknowledging the receipt of your letter dated the 20th April, 1852, I have the honour to acquaint you that the disturbance lately caused to you by the police sepoys shall be duly brought to the notice of Government, and measures taken to prevent its recurrence.

Your having without delay handed up the papers asked from you, has been reported about to Government, and their answer expressing their approbation of your conduct, shall as soon as received be forwarded to you.

T. A. Cowper, *Captain,*
Assistant Inam Commissioner.

No. 4.
(No. 1907.)

To Jeevanram Muzamdar.

Poonah.

Sir,—I have the honour to inform you that the sunuds which were in the duftars you had the goodness to forward to this office, shall be one and all returned to you, after they shall have been looked into.

Dated 24th August, 1852. T. A. Cowper, *Captain,*
Assistant Inam Commissioner.

No. 5.

To Captain Cowper, Assistant Inam Commissioner.

The humble petition of Krishnarao Nilkant Muzamdar.

Humbly Sheweth,—That your petitioner begs most respectfully to represent that while he was at Baroda Government carried away all budgets of papers from his house, and subsequently returned a few useless and unimportant papers, retaining all the sunuds and other useful documents relating to our Inams. That on a personal visit paid to your honour promised him to return them within two or three days, and that more than ten days have elapsed without your doing any such thing. He, therefore, requests your honour will have the goodness to retransmit them without any further delay.

Your petitioner, as in duty bound, shall ever pray.

No. 6.
(No. 3007.)

To Krishnaraojee Muzamdar.

Sir,—In acknowledging the receipt of your letter dated the 6th September, 1852, I have the honour to request you will have the goodness to inform me what papers you ask for from the duftar therein referred to.

Dated 1st September, 1852. T. A Cowper, *Captain.*

No. 7.

To Captain Cowper, Assistant Inam Commissioner.

The humble petition of Krisnarao Nilkhant Muzambar.

Humbly Sheweth,—That when your petitioner was at Baroda Government carried away all the budgets of papers from his house, and subse-

quently returned a few useless and unimportant papers, retaining all the sunuds and other useful documents, relating to the Inams granted to his family. That he petitioned you on the 6th of September, 1852, to restore them to him, and received an answer, No. 3007, dated the 7th of September, asking him what papers he referred to therein. Your petitioner begs to state that the papers asked for are the sunuds relative to our surranjams and Inams, together with disbursement papers relating to them. Your petitioner begs to remind that he had a personal interview and a talk with you regarding these documents, when you promised to send them with your letter, but he has not had the pleasure to receive any of them as yet.

That your petitioner requests you will be good enough to send them as early as possible.

Your petitioner, as in duty bound, shall ever pray.

9th September, 1852. KRISHNAROW NILKHANT.

No. 8.

(No. 3036.)

To Krishnarow Moozamdar.

SIR,—I have the honour to acknowledge the receipt of your letter dated the 9th September, 1852, and in reply I beg to state you will inform me what sunuds have been sent here, and to whom, where, and on what account were those sunuds granted, or send a copy of the list of paper.

T. A. COWPER, *Captain*,
Assistant Inam Commissioner.

To the Right Honourable the Governor, President in Council, Bombay.

The humble petition of Krishnarao Nilkhant, inhabitant of Poona.

MY LORD,—I most respectfully beg to acknowledge the receipt of Government letter of the 14th February, 1853, intimating that a complaint has been preferred against me by the Inam Commissioner, and that an inquiry is set on foot respecting it.

I therefore deem it necessary to lay my whole case before your Lordship.

That while I was at Baroda to get married, Captain Cowper, the Assistant Inam Commissioner, having searched my house, carried away all the papers in my possession, including the sunuds. This being communicated to me at Baroda by my karkoon, I wrote a letter to Government on the 1st of May, 1852, on the subject.

On my return to Poona I sought an interview with Captain Cowper; and having asked for my papers, he replied that they had been returned to my uncle, Jevanram Narayen Muzundar, to whose charge they were originally consigned. I then demanded those papers from Jevanram, when he expressly told me that he had received no such papers. We then together called at Captain Cowper's, and preferred an oral request that the papers in question, which contained the sunuds and other documents, might be returned to us. In answer to this we were flatly told, to our no little astonishment, that they had been returned to

Jevanram. A letter was subsequently addressed to Jevanram, of the 24th August, 1852, No. 1907, that the sunuds and other documents sent to him should be forthwith returned. This greatly misgave me, since the documents were not with me, with Jevanram, or with Government. On this I wrote to Captain Cowper, on the 6th September, 1852, that the sunnds, along with other documents, were carried away by Government, and that after an inquiry and examination of them, they should be returned to me. In reply, I received a letter from Captain Cowper, of the 7th September, 1852, No. 3007, desiring to be informed what papers I referred to in my letter. To this I replied, on the 9th September, 1852, and received in reply a letter, No. 3036, requiring information as to what documents were sent to the office of the Inam Commissioner, to whom and by whom they were granted, when and for what reasons, or to forward a copy of an inventory of such documents. To this I answered on the 11th September, 1852, and received a letter, No. 3031, in return. After having replied to this, I received through the Mamlutdar of Havalee some of my sunuds, and having written for others, I received them also through him. The account papers only remained to be returned.

On the 7th January, 1853, I received a letter from the political agent, directing me to deliver all Muzumdaree papers to Mr. Hart, the Inam Commissioner, within one month after the date of the letter, and to communicate on this being done. To this I have replied somewhat at length on the 8th January, 1853. After that another letter, of the 11th January, 1853, was addressed to me by the political agent, to which I replied on the 15th January, 1853. On the same day I wrote to Mr. Hart, and received a reply of the 18th January, 1853, which I take the liberty to enclose with the petition.

The reason why a few Muzumdaree papers were found with me, is, that while I was at Baroda to get married, the edifice in which I resided at Poonah having fallen down by the rains, spoiled and destroyed many documents. After my return to Poonah I found the papers in a decayed condition, and endeavoured to the best of my ability to secure and preserve those which I could. These were subsequently taken, as I have said above, by the order of the Inam Commissioner. I have no interest in concealing these documents, and would not for my life incur Government's displeasure and be guilty of such a crime by intentionally keeping them. My character ever has been unimpeachable and blameless.

In conclusion, I cannot but feel grateful for the kind favour and protection Government has so long accorded me, and expect the continuance of the same good feeling and protection.

I remain, my Lord,
Your Lordship's most humble servant,

Dated the 25th February, 1853. KRISHNARAO NILKANT.

Substance of the Decision given by Captain Griffith, Assistant Inam Commissioner, with reference to the village of Chincholee.

The village of Chincholee, Peta Coorcumba, Taloka Bhuntady, Zilla Poona, has been granted as an Inam to Tookarum Bawa and his

disciples in perpetuity by the Peishwa, in the year 1758. As none of the Tookaram Bawa's disciples, or his disciple's disciple, are at present living, the Inam, according to the provision of the grant must return to Government. Consequently, there seems to be no valid reason for allowing the son of Baluckram Bawa to enjoy the Inam. As, however, there appears to have been no fraud in the matter, the Assistant Inam Commissioner, in accordance with Act XI., of 1852, supplement, No. 2, chapter 6, directed that the Inam should be continued to Atmaram Bawa, the son of Baluckram Bawa, during his lifetime, and that, after his death, it should revert back to Government. The above decision bars nobody's claim to the Inam, but only restricts the line of its continuance.

Poona, dated the 18th April, 1853.

(No. 2926.—A copy, Talooka Mawal.)

To Mr. Venayeckrao Bulwunt Ghotwadkar.

Captain Cowper presents his compliments to Venayeckrao Balwunt, and has to acknowledge the receipt of his letter, dated the 24th July, 1855, through Captain Griffith, as well as his letter which accompanied it. In reply thereto, he has to state that the letter, No. 2835, sent to you by Captain Griffith, on the 23rd July, 1855, seems to be just and reasonable.

That in the event of any doubt or forgetfulness of the statement on the record of the village of Chincholee, you may write to us, and that the case shall be decided on your statement, and by a reference to the record.

TRIMBUCK MORESHWAR,

Poona, dated the 18th July, 1855. *Hoolgar Karkoon.*

To Mr. Venayeckrao Bulwunt Ghotwadkar.

SIR,—I have received your letter of the 23rd July, 1855, and beg to state that the copy of the record respecting the village of Ghatwadakar asked by you shall not be given to you.

You say that no appeal could be maintained, as the decision is given. To this I have to state that unless you prefer sending your appeal to the Inam Commissioner within one hundred days from time of the decision your appeal shall be refused.

29*th July*, 1855. —— GRIFFITH, *Captain.*

(No. 2921.)

To Mr. Venayeckrao Bulwunt Ghotwadkar.

Captain Griffith presents his compliments to Venayeckrao Bulwunt, and begs to acknowledge the receipt of his letter of the 26th ultimo, requesting for copies of Government duftar papers.

In reply, he has to state that he cannot comply with his request.

—— GRIFFITH, *Captain.*

Dated the 28th July, 1855. *Assistant Inam Commissioner.*

To Captain Cowper, Assistant Inam Commissioner.

SIR,—I have received your letter of the 9th September, 1852, No. 3036, requiring information on the following points: what sunuds were sent to our office, by whom, and to whom those sunuds were granted, when, and for what reasons; or to be furnished with a copy of the list of such documents.

In answer thereto, I have to acquaint you that the people in the Inam Commission have forcibly broke open the locks of my rooms while I was at Baroda, carried away all the papers in my possession, among which were the sunuds in question, and returned only a few unimportant papers. That though I had more than once written to you for those documents, and had an assurance from you of their safe return, according to the list you had of them with you, I have had, as yet, no pleasure of receiving them. I hope that they may be returned soon, as they are very much needed. That when they are returned to me I shall be glad to give the required information.

Hoping to receive a specific answer to this communication.

Your most obedient servant,

Dated the 11th September, 1852. KRISHNARAO NILKANT.

(No. 3071.)

To Krishnarao Nilkant, Esq., Mumzamdar.

SIR,—With reference to your letter of the 11th instant, I have the honour to observe, that the letter of the 9th ultimo is unanswered, and that you have written on quite a different subject. An additional delay has occurred by your not answering the letter of the 9th, the object of which was to give you those documents.

The letter was written to know how many sunuds were sent here, and whether you had any proof of such documents. You will inform me whether you possess them.

Dated the 11th of September, 1852. T. A. COWPER, *Captain.*

To Captain Cowper, Assistant Inam Commissioner.

SIR,—I beg to acknowledge the receipt of your letter of the 18th of September, 1852, No. 3071, and take the liberty of giving the contents of your letter an answer to it in juxtaposition.

That the letter of the 9th ult. is unanswered, and that you have written on quite a different subject.

An additional delay has occurred by your not answering the letter of the 9th, the object of which was to give you those documents.

The letter was written to know how many sunuds were sent here, and whether you had any proof of such documents.

That my two former communications have not been properly answered.

That I have given a just reply in my previous letter; being deprived of my papers, I find it difficult to give a full and correct statement.

That when the documents, together with the list of such documents, shall have been returned, I shall be able to say whether any of the papers are missing.

You will inform me whether you possess them.	That while at Baroda all my papers were seized and carried away, and unless the documents are returned to me I find it reasonable to withhold the required information.

From the tenor of your letter it does not seem clear whether it is your intention to return my documents. Hoping to receive a reply to this. I remain, sir,

Your most obedient servant,

Dated the 18th of September, 1852. KRISHNARAO NILKANT.

To W. Hart, Esq., Inam Commissioner.

SIR,—In compliance with your request, the Political Agent, Southern Mahratta Country, has addressed me two letters, one dated the 3rd of January, No. 30, and the other 11th of January, 1853, intimating me to forward to you all the Muzundaree papers in my possession within a month thereof, and that on my neglecting to do so an inquiry shall be instituted in the matter. In my answer of the 18th of August, 1852, to your communication of the 24th of June, 1852, I have stated my inability to forward the papers asked for, being deprived of them by the order of the Inam Commissioner while I was at Baroda. I therefore request you will have the goodness to write to the Political Agent to send me no pressing letters in future on the subject.

I remain, sir,

Your most obedient servant,

Dated the 15th of January, 1853. KRISHNARAO NILKANT.

To Krishnarao Nilkant, Muzamdar.

SIR,—I have to acknowledge the receipt of your letter of the 15th instant, and to acquaint you that the letters sent by the Political Agent are written with the instructions of Government. I believe they were written with good intentions, which you have taxed as being troublesome. And though I think that the Political Agent will give you no further trouble, yet to prevent him from so doing is not within my power.

Without due regard to the forms of polite writing you have addressed two impertinent letters to Captain Cowper, which were sent to me for my observation by that officer. On a perusal I find that he was mistaken in addressing you as a surdar, and writing in a form suitable to such a position. This style of writing has made you proud, and you had the audacity of writing in an insolent manner. Having thought of this, I communicated to that officer to transact every business with you through the mamlutdar, and to intimate you to do the same. But this injunction has not been observed by you. Your letter will be consequently sent for the consideration of Government.

W. HART.

Dated the 18th of January, 1853.

Appendix D.

To the Right Honourable Lord Viscount Falkland, Governor and President in Council, Bombay.

The humble petition of the undersigned Inamdars, Wuttundars, Sirdars, Merchants, and other inhabitants of the Collectorate of Poona, praying for certain additions, changes, and modifications in the proposed draft of an Act for the adjudication of titles to certain estates claimed to be rent free in the Presidency of Bombay, published in the Government *Gazette* of the 26th instant—

Most respectfully Sheweth,—That it was with great anxiety that your Lordship's petitioners first learned that your Honourable Board had in contemplation the appointment of an Inam Commission in the Deccan, Kandeish, &c.

The appointments of several officers as assistants to the Inam Commissioner, and the perusal of the proposed draft, have inspired your Lordship's petitioners with surprise and terror, insomuch that they positively apprehend great injustice and oppression will be inflicted upon them by the proposed draft, as it is passing into an Act, as well as by the establishment, through the instrumentality of which the intended Act is destined to be carried into force. Your Lordship's petitioners, therefore, beg with the most profound humility and respect to lay the following representation before your Lordship in Council, and anxiously solicit that your Lordship in Council may be pleased to take measures so that the several requests set forth herein may be duly considered and weighed by the Legislative Council of India before the proposed Act is passed into a law.

2. The proposed draft appears to distinguish alienations in land into two classes, namely, the grants for service to Government or on tenures of political nature, such as jehagheers, suranjams, buddulmooshaheerra, &c., and those that are not of this class.

3. The draft under notice does not purposely relate to the alienations of the former of these classes, but is intended to guide the decision by the officers of the Inam Commission in regard to alienations of the latter. There are several important points which your Lordship's petitioners would strongly but respectfully urge should be specially provided for in passing a law of the nature of the one under notice, which is to affect the interests of a very large portion of your Lordship's subjects. The principal of them are as follows :—

3. In schedule B. of the draft under discussion, the alienations to be decided according to the rules it contains, are distinguished into three divisions :—

1st. Those that are declared permanent by competent authority since the introduction of the British Government, or held under sunuds declaring them hereditary.

2nd. Those for which there are no sunuds declaring them to be hereditary, or the sunuds for which are lost, and to which a prescriptive title is to be recognized as created according to the period of enjoyment.

3rd. Those which are held for purposes permanent in their character, and those which are acknowledged and considered to be hereditary by the usages of the country. Lands held for the support of temples and mosques, and the Inams of Kajees and village Josees, are specified as belonging to this 3rd class.

Rules 1 and 8 relate to the 1st division, 3 to the 2nd, and 7 to 8 to the 3rd division, with their respective provisions.

4. Your Lordship's petitioners now beg the liberty of bringing to your Lordship's notice an omission of the utmost importance in schedule B, of alienations held on tenures permanent in their nature and character, and acknowledged and considered to be so from time immemorial. It is true the 10th rule vests in your Lordship the power of interpreting the rules contained in the Act; but your Lordship's petitioners extremely doubt whether the interpretation of schedule B, so as to redress effectually the grievances in regard to this important omission was ever contemplated by the 10th rule, and the practice hitherto observed in deciding claims to alienations held on tenures permanent in their nature, acknowledged and considered to be so throughout the whole of Hindoostan from time out of memory to the present, and even deemed sacred and dearer than life by the whole population, has been anything but to inspire confidence that no injustice and oppressions will be inflicted by the rules in the proposed draft.

5. In noticing these permanent tenures your Lordship's petitioners beg to dwell at length on that very one from which the commission itself derives its name. Has not the name Inam been given to the commission from the fact that the largest portion of alienations to be inquired into are held in these tenures, and is it not but justice to your Lordship's subjects that the nature of these all-important tenures be prominently specified in a law by which the Inam Commission is to decide upon Inams?

6. The word Inam is of Persian origin, and means in that language a gift, that is, when anything is granted as Inam the donor has not the remotest interest in it, as least as long as the granter or grantees, or his or their heirs in perpetuity, are alive. The wishes of donors and expectations of grantees in Hindoostan were, to say the least of them, nothing less than the true meaning and import of this term.

7. In this country grants of land on the Inam tenure were made by the former Government and their officers, and by the Jamendars and communities of people. The etymology of the term, the wishes of the donors and the hopes of the donors, have all conspired to make Inam in itself a permanent tenure, and the usage of Governments which have preceded the British in this country, as well as those that still subsist, has been and is to treat Inam itself as a permanent tenure. Inams only revert to Government as heirs to intestate property; but as long as the donors and their heirs in perpetuity do exist, Government has no right to interfere with the Inam property. Inam is one of the best tenures in India. The same may be said at least with equal propriety with respect to "Don," Agrahar, Buckshee, and other tenures, some of these terms being mere substitutes for Inam, and others bearing as strong an import.

Is not, under these circumstances, any illiberal limitation of one

signification of these terms a great injustice and oppression to the people?

8. The only objection that can be made to the truth of the affirmation in the foregoing paragraph is an inference, drawn from the fact of some sunuds for Inams, Dons, Buckshees, &c., declaring them to be hereditary in perpetuity, and others being silent on this point, that some grants were made or intended to be hereditary, and others were not.

9. That this inference, which *primâ facie* appears to be plausible, is entirely groundless, is proved by the following reasons:—

1st. One and the same usage has been observed by all the native and Mahomedan Governments in continuing the grants on Inam and other permanent tenures; and this was to continue them hereditary in perpetuity, whether the sunuds declared them to be so or not. To be convinced of this, let your Lordship take 100 or 1000 instances of Inams held under hereditary title, and an equal number of those the titles for which are silent as regards continuing them hereditarily, and an inquiry made in the records of each of the former Governments, or of native Governments which still subsist, to ascertain whether or not the grants of Inams, &c., under both sorts of titles, were continued in the same way. Your Lordship's petitioners doubt not that the result of such an inquiry will clearly establish the permanent nature of the tenures called Inams, Don, &c.

2nd. Under the Peishwa's and other native Governments, independently of political causes, such as rebellion and party feeling of the ruling individuals, never were Inams and grants of a similar nature resumed but on the extinction of the heirs of the grantee,—this cause being specifically mentioned in the order of resumption; never was a grant on a permanent tenure resumed because the sunud under which it was held did not specifically declare it hereditary, and never was the future duration of such a grant ever measured by the period of past enjoyment. Exceptions to this rule will be found to originate only in the wickedness or avarice of anarchical periods. But these will be extremely few, and to be found in equal numbers in cases of both hereditary and loose titles. But why should your Lordship's petitioners dwell on this point, as if the British Government wished to follow the practice of desolate, wicked and tyrannical rulers, or apply rules of political war and anarchy to those of peace, justice, and liberality?

3rd. That no distinction was either meant or contemplated in hereditary or loose titles for Inams, &c., is further proved by the fact that loose titles as well as hereditary ones were granted in grants when the merit or services by which they were obtained were equally great. Had a distinction been understood or suspected between hereditary and loose titles, how would the latter class of titles have ever been granted or accepted, where extraordinary sacrifices of labour, money, and even life had been made to obtain them, and when, candour must allow, reasons had been too strong to allow of any other titles than hereditary being contemplated.

4th. Many are still living in the Deccan who have been on the Peishwa's and Sattara Rajah's duftar establishments, and they express a surprise when told that British Government makes a distinction

between hereditary and loose titles in cases of Inams, &c., and measures the future duration of the grants on these tenures where titles are not from various causes forthcoming, or are loose by a period of forty or sixty years' enjoyment. For they say such a distinction had never been dreamt of by themselves or their masters, when the grants were made, and conceive it to originate in anything but justice and liberality. A few writers of sunnuds are still living who are horrified at the notion of making distinction between hereditary and loose titles, at measuring the future duration of grants by a period of enjoyment.

5th. A strong argument in favour of your Lordship's petitioners also arises from the circumstances that if the future duration of grants on permanent tenures is to be measured by a period of enjoyment, in what would these well-known, dear, and invaluable tenures differ from Khering, Mooshabera, and other tenures, the duration of which somewhat depended upon the will of donors, and the future duration of which may be measured by a period of enjoyment. Under the law of making distinction between hereditary and loose titles for grants of Inams, &c., or measuring their future duration by past enjoyment, such tenures hitherto deemed valuable, dear, and best, would have entirely lost their value, and would resemble the weakest tenures in existence.

6th. Under the former Government, Inams could be sold and alienated. In a few cases Government sanction was obtained, which appears to have led the British Government to conclude that these transactions could not take place but with the consent of Government. But your Lordship's petitioners doubt not many will be found where no sanction was held necessary. However this be, the fact clearly proves that Inamdars had perfect property in their estates.

7th. For a considerable length of time after the conquest of the Deccan, British Government treated Inams as private property, and your Lordship's petitioners do not know why these views are changed.

8th. It is, therefore, but natural for your Lordship's petitioners to show why there are two sorts of titles for grants, such as Inams, as these were in themselves permanent, and the following observations will suffice. The etymology of the terms, the ideas of the granters and grantees, the usage of the country as regards the permanent continuance of these grants, made any specific titles unnecessary, and left no room to suspect their permanent nature. The insertion of the words meaning hereditary, in perpetuity, was a mere ornamental improvement, only calculated to show the import the tenures implied where the writers felt it pride, or had leisure and sophistry to do so, which, however, were all innocent, as the ideas of the people, the usage of the country, and the practice regarding the continuance, left no room for suspecting a distinction between the loose and improved phraseology. 2ndly, No form of phraseology was framed by authority, and the phraseology of titles thus depended upon the choice, leisure, sophistry, and pride of talent of the writer. A candid examination of titles of grants of Inams, &c., will convince your Lordship in Council of the truth of these observations.

9th. Under these circumstances your Lordship's petitioners humbly request to let it be a rule that grants held on tenures of a permanent

nature, such as Inams, Dons, &c., shall be continued hereditarily or in perpetuity, according to the usage of the country, to the heirs of the grantees where these are known, and where these are not known to the heirs of all those who may be proved to have enjoyed such grants under the former and present rules, without regard to the phraseology of titles, or periods of past enjoyments.

10th. Your lordship's petitioners conceive that this request will lead to long preliminary inquiries, as it appears these have not been already made, and they therefore humbly suggest that no opinion on the subject of tenures of permanent nature be formed or received as correct which is founded on mere impression. To free the opinions from error, let them be founded on the knowledge of the ideas of the people respecting the nature of such tenures, the usage of continuing grants as observed by former Governments, and let them be supported by sufficiently long and detailed tables, candidly and carefully showing the phraseology of the titles, and how they had been continued by former Governments, and if resumed the causes of resumption supported by the phraseology of orders, or collateral evidence.

11th. Your Lordship's petitioners cannot prevail on themselves to believe that the British nation as rulers in this country will suffer itself to be surpassed by its predecessors in views of justice and liberality, or allow the spirit of these generous rulers of India for past centuries to look on itself with horror for depriving hundreds of thousands of its subjects, merely because a full and candid and public discussion was not made respecting the nature of certain tenures held sacred and dearer than life by millions of its subjects.

12th. Having thus far pointed out an important omission in the Schedule B of the proposed draft, the provision for which is of the utmost consequence to the interests of justice and liberality. Your Lordship's petitioners beg to solicit certain modifications and changes in the schedule itself.

The object of legislation being to provide as clearly as possible for every contingency or question, your Lordship's petitioners humbly request that rule 1 be accompanied with a list of the officers who were held competent to declare and recognise grants as hereditary, and the provision 1 of rule 1 be reduced only to such cases as cannot be foreseen under an enlightened and systematic Government as the British. The framing of such a list would not entail any very great labour. In framing the list every regard ought to be paid to the several periods when Government found it politic to vest more or less power in the incumbent of the same office, as well as to the corresponding opinions of the people of the Deccan regarding the powers of the various officers of the British Government, which opinions it was the object and consequence of the policy of Government to create, promote, and maintain.

13. Provision 1 of rule 2 involves a question, a correct decision of which is a task of the utmost nicety and difficulty, and of the greatest importance to the interests of your Lordship's petitioners. Under the illiterate and despotic, but generous Government which prevailed in this country, no regulations defining the powers of chief, and of revenue, military, and political officers did exist. The powers that each chief officer, or individual, exercised, were in proportion to the independence

he had acquired, the eminence he had attained, the respect he had commanded by his personal merits, the influence he had with the ruling party, or the favour with which he was received at Court The various successions, rise of parties into power; and, above all, the various revolutions which occurred till thirty years ago in the Deccan, have tended to obliterate every trace of chief officers, and even individuals, who once exercised almost princely powers. A clear insight into the constitutions and characters of the former Governments, and a correct knowledge of the state of opinion of the people, will, it is hoped, leave but little room to doubt the truth of what has been remarked, and convince them of the difficulty and delicacy of performing the task imposed upon your Honourable Board by the provision under discussion. The ends of justice will no doubt greatly suffer from a slight want of information of any particular period, chief officer, or individual, and increase the charges of injustice to the greatest degree imaginable.

14. Under these circumstances your Lordship's petitioners cannot but wish that the provision under notice be more specific, and that a general test of authority be fixed. They, therefore, most humbly solicit that it be ruled that any chief officer or individual who may be found to have made five grants, or more, at most ten, be held a competent party to make grants, and confine the provisions 1 of rule 2 to such cases as do not fall within this rule.

15. Your Lordship's petitioners humbly hope that this request will, by no means, be deemed extravagant, but it is, on the contrary, quite consonant with the requirements of justice, and the spirit of benevolence and liberality which forms the basis of the British legislation and Government in this country.

16. With reference to the rules from 3 to 6 of Schedule B, your Lordship's petitioners humbly request that these rules be clearly declared applicable only to grants not held on tenures permanent in their nature, and character, and knowledge, and considered to be so by the nation for centuries together.

17. With reference to the standard of past enjoyment laid down generally in the rules of Schedule B, by which the future duration of alienation in land on permanent tenures is to be measured, there is an important point which your Lordship's petitioners respectfully beg to bring to the notice of your Honourable Board. The draft commences with the preamble that where, as in the territories of the Deccan, Candeish, and Southern Mahratta Country, and other districts more recently annexed to the Bombay Presidency, claims against Government on account of Inams and other estates wholly or partially exempt from payment of land revenue, are incapable of being justly disposed of under the rules for the determination of titles and the rules of the procedure contained in Chap. IX. and X. of Regulation XVII. of 1827 of the Bombay Code and their supplements, and it is therefore to be ruled that these two rules, and those in Clause 1 of Regulation VI. of 1833 do not apply to any of the districts of the Bombay Presidency which were not brought under the general regulation of the Government by Regulation XXVIII. of 1827, does this mean that the said rules do not apply to the Deccan, Candeish, and the Southern Mahratta

Country? Your Lordship's petitioners hope it does not, for that these districts had the benefit of those rules is unquestionable, whether or not by Regulation XXVIII., a point immaterial to the interests of justice. If, however, the non-application of the said rules to the said districts is contemplated by the first rule of the present draft, this draft then fairly rescinds the said rules as regards the said district. Whatever this may be, the rules in Chaps. IX. and X. of Regulation XVII. of 1827 hold sixty years' past enjoyment as sufficient to constitute permanent title, and this was modified so far in 1833 that Clause 1 of Regulation VI. of that year holds thirty years' past enjoyment as sufficient for that purpose.

Now, none of these rules are understood to require the period of enjoyment to be counted backwards from the fall of the Peishwa's Government, and court of law the period is counted from the date of the cause of action. The rules and provisions of Schedule B hold also sixty years' past enjoyment as constituting a permanent enjoyment, but require that this period be counted from the fall of the Peishwa's power. They therefore hold in reality a period of ninety-three years' past enjoyment, counting backwards from the present year, as the only period sufficient to constitute a future permanent title. If, then, eighteen years ago justice was deemed to require that standard of past enjoyment be reduced from sixty to thirty years, how can the same justice now require that it be increased to ninety-three. How can this standard be consistent with the statutes of the enlightened national Council of the generous British nation, from which the Legislative Council of India draws its powers. How can it be consistent with the decision of the Privy Council of Great Britain in the case of Mahatubchund Bahadoor, Rajah of Burdwan, where it is determined that the enjoyment of sixty years be counted from the cause of action; or with the professed principle of liberality of the Indian Government. Your Lordship's petitioners therefore humbly solicit that in case of alienation in land not already declared hereditary, or for which there are not hereditary titles, which are not held on permanent tenures, or for permanent purposes, and which do not form the emoluments of hereditary offices, the past enjoyment of sixty and forty years, as recognised in in the rules of Schedule B, be counted from the date of the inquiry, or at most from the date on which an act for guidance of the commission is passed.

18. Your Lordship's petitioners beg further to notice that the rules in Schedule B make but very slight allusion to the imperfect nature of evidence the Inam Commission can expect to procure in the course of the inquiry; and they deeply regret to find no provision made to counteract the dreadful consequences arising from the illiterate and ignorant character of the former inhabitants of the Bombay Presidency, and the fire and sword carried on by barbarism into the Deccan, Candeish, and Southern Mahratta Country but thirty years ago—misrule, anarchy, plunder, party spirit—to say nothing of the effects the destroying hand of time must have had upon documentary evidence required for substantiating claims by the Inam Commission. It may be argued that the Inam Commission will have the use of the Peishwa's records, and, perhaps of the Sattara Rajah too; but can the records of the Honourable

the Court of Directors, of the Calcutta and Bombay Secretaries, of the Civil Auditors, Accountant-Generals, or returns of revenue and expenditure furnished to Parliament by the Indian Government, suffice for a successor of the British Government as a source of evidence for deciding claims to Inams, &c. ? The answer must, of course, be in the negative. In what do, then, the Peishwa's records differ ? The records kept by village accountants and district officers are what is required by the Inam Commission ; and are these to be found in the Peishwa's duftar? The collectorate of Poona only comprises about 1,200 villages, and let the officers of the Peishwa's duftar state of how many of these he has the accounts of the nature required by the Inam Commission, and continuous for a period of sixty years. If that officer states he has no land-rolls of Poona itself for sixty years, what must be the state of accounts of the thousands of villages comprised in the frontier provinces of Candeish, Ahmednugger, Sholapore, and the Southern Mahratta Country, which it is but too well known were mostly alienated on various tenures till but a few years before the introduction of British rule ? Are the records kept by the holders of these districts, as well as by the district officers and village accountants to be had for the Inam Commission ? No; certainly not. They are lost long ago. The interpretation, as at present put on the import and spirit of old documents and records, is another source which may give rise to very great injustice and oppression, and cannot fail to be carried to its utmost on the occasion of the investigation by the Inam Commission.

19. The account given here cannot be in the least an exaggeration, but must fall much below the real state of things. Can justice then be done by the Inam Commission to the half naked and half starved koonbee ?—who shudders at the sight of a Sirkar's peon and who does not know what amount two and two make.

20. In this state of things the Act, with the Inam Commission as it is at present composed, cannot fail to be a martial law for the Inamdars. Under which the act of the people cannot but be sealed rather according to the will of the rulers than to justice and liberality.

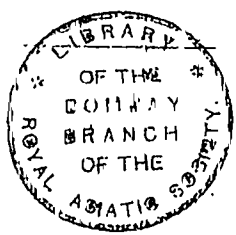
21. Your Lordship's petitioners therefore, in addition to the requests contained in the above paras., humbly entreat that it be ruled that each officer of the Inam Commission who is to pass decisions be assisted by one native possessing the authority of an equal and not of an inferior. These natives should be men of cultivated understanding and enlarged views, capable of framing a correct judgment, giving an independent and impartial opinion, and of recording the same, with the reasons on which it is grounded, in the English language. Your Lordship's petitioners doubt not there are many qualified for the task and possessing all the qualities that can be required.

22. Your Lordship's petitioners request that it may be ruled that each individual whose claim comes before the Inam Commission be furnished with a copy of the evidence obtained by the Inam Commission in regard to the claim, independently of that produced by the party himself, with whatever remarks the deciding officer has to make regarding its nature, one hundred days before the decision is passed ; that there may be sufficient time for the claimants to enter any pleadings they may

wish to offer. It is quite unnecessary for your Lordships petitioners to say any thing in support of the justice of this request.

23. Your Lordships petitioners also beg to solicit that the road of justice may not be closed against them by limiting the number of the courts of appeal. They request they should be allowed to appeal from the decision of the Inam Commissioner to the Suddur Adawlut, the Government of Bombay, the Court of Directors, and the Privy Council, &c. &c.

24. In conclusion, your Lordships petitioners humbly beg to recommend the several prayers contained in this petition, with the observation that it may please your Lordship to make it the glory of your Lordships Administration to have seriously weighed and considered and granted the prayer of a hundred thousand of the subjects of the British nation.



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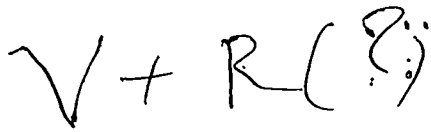

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